LAWS, RESOLUTIONS AND MEMORIALS

OF THE

TERRITORY OF MONTANA,

PASSED AT THE

FOURTEENTH REGULAR SESSION

OF THE

LEGISLATIVE ASSEMBLY,

HELD IN HELENA, THE SEAT OF GOVERNMENT OF SAID TERRITORY, COMMENCING JANUARY 12, A. D. 1885, AND ENDING MARCH 12, A. D. 1885.

TO WHICH ARE PREFIXED

SECTIONS OF THE REVISED STATUTES OF THE UNITED STATES, AND SUBSEQUENT ACTS OF CONGRESS, RELATING TO GOVERNMENT IN THE TERRITORY OF MONTANA.

PUBLISHED BY AUTHORITY.

ROBERT E. FISK,
PUBLIC PRINTER AND BINDER,
Helena, Montana.
1885.

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CERTIFICATE OF AUTHENTICATION.

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TERRITORY OF MONTANA, } ss.
SECRETARY'S OFFICE. }

I, John S. Tooker, secretary of the territory of Montana, do hereby certify that the printed laws, resolutions and memorials contained in this volume are true and correct copies of all the enrolled laws, resolutions and memorials that were passed at the fourteenth regular session of the legislative assembly of said territory, begun January 12, A. D. 1885, and ending March 12, A. D. 1885, and held at Helena, the seat of government of said territory, with the exceptions of corrections in orthography and punctuation, and omissions or substitute words inserted in brackets.

In testimony whereof I have hereunto set my hand and affixed the great [SEAL.] seal of said territory. Done at Helena, the seat of government of the territory of Montana, this fourth day of May, A. D. 1885.

JOHN S. TOOKER,
Secretary of the Territory of Montana.

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GOVERNOR OF MONTANA.....B. P. CARPENTER.

—o—

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THE TERRITORIES.

REVISED STATUTES OF THE UNITED STATES.

TITLE XXIII. CHAPTER ONE.

PROVISIONS COMMON TO ALL THE TERRITORIES.

Right of Indians in person and property not impaired by this title, &c.; boundaries, &c. Mont. 26 May, 1864.

SEC. 1839. Nothing in this title shall be construed to impair the rights of person or property pertaining to the Indians in any territory so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of such tribe, embraced within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of any territory now or hereafter organized until such tribe signifies its assent to the president to be embraced within a particular territory.

Authority to regulate Indians. Ibid.

SEC. 1840. Nor shall anything in this title be construed to affect the authority of the United States to make any regulations respecting the Indians of any territory, their lands, property, or rights, by treaty, law, or otherwise, in the same manner as might be made if no temporary government existed, or is hereafter established, in any such territory.

Executive power. Ibid.

SEC. 1841. The executive power of each territory shall be vested in a governor, who shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president. He shall reside in the territory for which he is appointed, and shall be commander-in-chief of the militia thereof. He may grant pardons and reprieves, and remit fines

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and forfeitures, for offenses against the laws of the territory for which he is appointed, and respites for offenses against the laws of the United States, till the decision of the president can be made known thereon. He shall commission all officers who are appointed under the laws of such territory, and shall take care that the laws thereof be faithfully executed.

SEC. 1842. Every bill which has passed the legislative assembly of any territory shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but, if not, he shall return it, with his objections, to that house in which it originated, and that house shall enter the objections at large on its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house agree to pass the bill it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and, if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each house. If any bill is not returned by the governor within three days, Sundays excluded, except in Washington and Wyoming, where the term is five days, Sundays excluded, after it has been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly, by adjournment *sine die*, prevent its return, in which case it shall not be a law: *Provided*, that so much of this section as provides for making any bill passed by the legislative assembly of a territory a law, without the approval of the governor, shall not apply to the territories of Utah and Arizona.

Veto power. Ibid.

SEC. 1843. There shall be appointed a secretary for each territory, who shall reside within the territory for which he is appointed, and shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president. In case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall execute all the powers and perform all the duties of governor, during such vacancy or absence, or until another governor is appointed and qualified.

Secretary. Ibid.

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SEC. 1844. The secretary shall record and preserve all the laws and proceedings of the legislative assembly, and all the acts and proceedings of the governor in the executive department: he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session thereof, to the president, and two copies of the laws, within like time, to the president of the senate and to the speaker of the house of representatives, for the use of congress: he shall transmit one copy of the executive proceedings and official correspondence, semi-annually, on the first day of January and July in each year, to the president: he shall prepare the acts passed by the legislative assembly for publication, and furnish a copy thereof to the public printer of the territory, within ten days after the passage of each act.

Secretary's duties. Ibid.

SEC. 1846. The legislative power in each territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The members of both branches of the legislative assembly shall have the qualifications of voters as herein prescribed. They shall be chosen for the term of two years, and the sessions of the respective legislative assemblies shall be biennial. Each legislative assembly shall fix by law the day of the commencement of its regular sessions. The members of the council and of the house of representatives shall reside in the district or county for which they are respectively elected.

Legislative power. Mont., 26 May, 1864; 3 March, 1869; 20 June, 1874.

SEC. 1847 Previous to the first election for members of the legislative assembly of a territory in which congress may hereafter provide a temporary government, the governor shall cause a census of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as he may designate and appoint, and the persons so appointed shall receive a reasonable compensation for their services. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who superintend such elections and the returns thereof, as the governor may direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts is entitled under the act

Census and election. Mont., 26 May, 1864.

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providing such temporary government for the particular territory. The persons having the highest number of legal votes in each of the districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of that house; but in case two or more persons voted for have an equal number of votes, and in case a vacancy otherwise occurs in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor appoints.

Time and place of holding elections. Ibid.

SEC. 1848. After such first election, however, the time, place, and manner of holding elections by the people in any newly-created territory, as well as of holding all such elections in territories now organized, shall be prescribed by the laws of each territory.

Apportionment. Ibid.

SEC. 1849. The apportionment of representation, which the governor is authorized to make by section eighteen hundred and forty-seven, in the case of a territory hereafter erected by congress, shall be as nearly equal as practicable among the several districts and counties for such first election of the council and house of representatives, giving to each section of the territory representation in the ratio of its population, except Indians not taxed; and thereafter in such new territory, as well as in all territories now organized, the legislative assemblies, respectively, may re-adjust and apportion the representation to the two houses thereof, among the several counties and districts, in such manner, from time to time, as they deem just and proper; but the number of either house, as authorized by law, shall not be increased.

Laws to be submitted to congress. Ibid.

SEC. 1850. All laws passed by the legislative assembly and governor of any territory except in the territories of Colorado, Dakota, Idaho, Montana, and Wyoming, shall be submitted to congress, and, if disapproved, shall be null, and of no effect.

SEC. 1851. The legislative power of every territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United

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States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents.

Extent of legislative power. Ibid.

SEC. 1854. No member of the legislative assembly of any territory now organized shall hold or be appointed to any office which has been created, or the salary or emoluments of which have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to the members of the first legislative assembly in any territory hereafter organized; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of any territory. The exception of postmasters shall not apply in the territory of Washington.

Members of legislature prohibited from holding certain offices. Mont., 26 May, 1864.

SEC. 1855. No law of any territorial legislature shall be made or enforced by which the governor or secretary of a territory, or the members or officers of any territorial legislature are paid any compensation other than that provided by the laws of the United States.

Prohibition of extra compensation to certain officers. 23 Jan., 1873.

SEC. 1856. Justices of the peace and all general officers of the militia in the several territories shall be elected by the people in such manner as the respective legislatures may provide by law.

Election of justices of the peace and militia officers. Mont., 26 May, 1864.

SEC. 1857. All township, district, and county officers, except justices of the peace and general officers of the militia, shall be appointed or elected in such manner as may be provided by the governor and legislative assembly of each territory; and all other officers not herein otherwise provided for, the governor shall nominate, and by and with the advice and consent of the legislative council of each territory, shall appoint; but, in the first instance, where a new territory is hereafter created by congress, the governor alone may appoint all the officers referred to in this and the preceding section, and assign them to their respective townships, districts, and counties; and the officers so appointed shall hold their

Other officers. Ibid.

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offices until the end of the first session of the legislative assembly.

Vacancies, how filled. 8 June, 1872.

SEC. 1858. In any of the territories, whenever a vacancy happens from resignation or death, during the recess of the legislative council, in any office which, under the organic act of any territory, is to be filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council.

Qualifications of voting and holding office at first election. Mont., 26 May, 1864.

SEC. 1859. Every male citizen above the age of twenty-one, including persons who have legally declared their intention to become citizens in any territory hereafter organized, and who are actual residents of such territory at the time of the organization thereof, shall be entitled to vote at the first election in such territory, and to hold any office therein; subject, nevertheless, to the limitations specified in the next section.

At future elections. Ibid.

SEC. 1860. At all subsequent elections, however, in any territory hereafter organized by congress, as well as at all elections in territories already organized, the qualifications of voters and of holding office shall be such as may be prescribed by the legislative assembly of each territory; subject, nevertheless, to the following restrictions on the power of the legislative assembly, namely:

First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty one years, and by those above that age who have declared on oath, before a competent court of record, their intention to become such, and have taken an oath to support the constitution and government of the United States.

25 Jan., 1867.

Second. There shall be no denial of the elective franchise or of holding office to a citizen on account of race, color, or previous condition of servitude.

Third. No officer, soldier, seaman, mariner, or other person in the army or navy, or attached to troops in the service of the United States, shall be allowed to vote in any territory, by reason of being on service therein, unless such territory is, and has been for the period of six months, his permanent domicile.

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Fourth. No person belonging to the army or navy shall be elected to or hold any civil office or appointment in any territory.

Delegate to congress. Mont., 26 May, 1864.

SEC. 1862. Every territory shall have the right to send a delegate to the house of representatives of the United States, to serve during each congress, who shall be elected by the voters in the territory qualified to elect members of the legislative assembly thereof. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly. Every such delegate shall have a seat in the house of representatives, with the right of debating, but not of voting.

Time, places and manner of electing delegate. Ibid.

SEC. 1863. The first election of a delegate in any territory for which a temporary government is hereafter provided by congress shall be held at the time and places and in the manner the governor of such territory may direct, after at least sixty days' notice, to be given by proclamation; but at all subsequent elections therein, as well as at all elections for a delegate in organized territories, such time, places, and manner of holding the elections shall be prescribed by the law of each territory. [See § 25.]

Supreme courts of territories. Ibid.

SEC. 1864. The supreme court of every territory shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and they shall hold their offices for four years, and until their successors are appointed and qualified. They shall hold a term annually at the seat of government of the territory for which they are respectively appointed.

Judicial districts and courts. Ibid.

SEC. 1865. Every territory shall be divided into three judicial districts; and a district court shall be held in each district of the territory by one of the justices of the supreme court, at such time and place as may be prescribed by law; and each judge, after assignment, shall reside in the district to which he is assigned.

Jurisdiction of courts. Ibid, 7 April, 1874.

SEC. 1866. The jurisdiction, both appellate and original, of the courts provided for in sections nineteen hundred and seven and nineteen hundred and eight, shall be limited by law.

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Jurisdiction of justices of the peace. Ibid.

SEC. 1867. No justices of the peace in any territory shall have jurisdiction of any case in which the title to land, or the boundary thereof, in anywise comes in question.

Chancery and common law jurisdiction. Ibid.

SEC. 1868. The supreme court and the district courts respectively, of every territory, shall possess chancery as well as common law jurisdiction.

Appellate jurisdiction of supreme court. Ibid.

SEC. 1869. Writs of error, bills of exception, and appeals shall be allowed, in all cases, from the final decisions of the district courts to the supreme court of all the territories, respectively, under such regulation as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in that court.

Clerk of supreme court. Mont., 26 May, 1864.

SEC. 1870. The supreme court of each territory shall appoint its own clerk, who shall hold his office at the pleasure of the court for which he is appointed.

Clerk of district court. Ibid.

SEC. 1871. Each judge of the supreme court of the respective territories shall designate and appoint one person as clerk of the district over which he presides, where one is not already appointed, and shall designate and retain but one such clerk where more than one is already appointed, and only such district clerk shall be entitled to a compensation from the United States.

Register in chancery; residence and office. Ibid.

SEC. 1872. Every district clerk shall be also the register in chancery, and shall reside and keep his office at the place where the court is held.

Judicial districts; how defined. Ibid.

SEC. 1873. Temporarily, and until otherwise provided by law, the governor of every territory which may be hereafter established, shall define, by proclamation, the judicial districts of such territory, and assign the judges appointed for such territory to the several districts, as well as fix the times and places for holding courts in the respective counties or sub-divisions of each judicial district.

SEC. 1874. The judges of the supreme court of each territory are authorized to hold court within their respective districts, in the counties wherein, by the laws of

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the territory, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party; but the expense of holding such courts shall be paid by the territory, or by the counties in which the courts are held, and the United States shall in no case be chargeable therewith.

Judges of supreme court to hear certain causes. Ibid.

SEC. 1875. There shall be appointed in each territory a person learned in the law to act as attorney for the United States. He shall continue in office for four years, and until his successor is appointed and qualified, unless sooner removed by the president.

District attorneys. Ibid.

SEC. 1876. There shall be appointed a marshal for each territory. He shall execute all process issuing from the territorial courts when exercising their jurisdiction as circuit and district courts of the United States. He shall have the power and perform the duties, and be subject to the regulations and penalties imposed by law on the marshals for the several judicial districts of the United States. He shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president.

Marshals. Ibid.

SEC. 1877. The governor, secretary, chief justice, and associate justices, attorney, and marshal of every territory shall be nominated and, by and with the advice and consent of the senate, appointed by the president.

Appointment of governor, &c. Ibid.

SEC. 1878. The governor and secretary for each territory shall, before they act as such, respectively take an oath before the district judge, or some justice of the peace in the limits of the territory for which they are appointed, duly authorized to administer oaths by the laws in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States and faithfully to discharge the duties of their respective offices; and such oaths shall be certified by the person before whom the same are taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers appointed for any territory, before they act as such, shall take a like oath

Oath of office; how qualified. Ibid. 1 May, 1876.

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before the governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, and such oath shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as above directed; but after the first qualification of the officers herein specified in the case of a new territory, as well as in all organized territories, the like oath shall be taken, certified, and recorded in such manner and form as may be prescribed by the law of each territory.

Salaries of justices. 17 June, 1870.

SEC. 1879. The annual salary of the chief justice and associate justices of all the territories now organized shall be three thousand dollars each.

Salary of attorney. Mont., 26 May, 1864.

SEC. 1880. The salary of the attorney of the United States for each territory shall be at the rate of two hundred and fifty dollars annually.

Salary of marshal. Ibid.

SEC. 1881. The salary of the marshal of the United States for each territory shall be at the rate of two hundred dollars a year.

When salaries to be paid, &c. Ibid.

SEC. 1882. The salaries provided for in this title, to be paid to the governor, secretary, chief justices, and associate justices, district attorney, and marshal of the several territories, shall be paid quarter-yearly at the treasury of the Untied States.

Fees of clerks, &c. 23 June, 1874.

SEC. 1883. The fees and costs to be allowed to the United States attorneys and marshals, to the clerks of the supreme and district courts, and to jurors, witnesses, commissioners, and printers in the territories of the United States shall be the same for similar services by such persons as prescribed in chapter 16, title "THE JUDICIARY," and no other compensation shall be taxed or allowed.

Salary not to be paid when officer is absent. Mont., 26 May, 1864.

SEC. 1884. When any officer of a territory is absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown to the president, who shall officially certify his opinion of such cause to the proper accounting officer of the treasury, to be filed in his office.

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SEC. 1885. The legislative assembly of every territory hereafter organized shall hold its first session at such time and place in the territory as the governor thereof shall appoint and direct; and at the first session of the legislative assembly, or as soon thereafter as it may be deemed expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for the territory at such place as they may think proper; but such place shall thereafter be subject to be changed by the governor and legislative assembly.

Seat of government in a new territory. Ibid.

SEC. 1886. All accounts for disbursements in the territories of the United States, of money appropriated by congress for the support of government therein, shall be settled and adjusted at the treasury department; and no act, resolution, or order of the legislature of any territory, directing the expenditure of the sum, shall be deemed a sufficient authority for such disbursement, but sufficient vouchers and proof for the same shall be required by the accounting officers of the treasury. No payment shall be made or allowed, unless the secretary of the treasury has estimated therefor and the object been approved by congress. No session of the legislature of a territory shall be held until the appropriation for its expenses has been made.

Accounts of the territories; no payments unless approved by congress. Mont., 26 May, 1864.

SEC. 1888. No legislative assembly of a territory shall, in any instance or under any pretext, exceed the amount appropriated by congress for its annual expenses.

Limitation on expenses of legislature. Mont., 26 May, 1864.

SEC. 1889. The legislative assemblies of the several territories shall not grant private charters or especial privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, or the construction or operation of railroads, wagon roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable, or scientific association.

Legislatures not to grant special charters. 2 March, 1867. 10 June, 1872.

SEC. 1890. No corporation or association for religious or charitable purposes shall acquire or hold real estate in any territory, during the existence of the territorial

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Limitation on right of religious corporations to hold real estate. Mont., 26 May 1864.

government, of a greater value than fifty thousand dollars; and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States; but existing vested rights in real estate shall not be impaired by the provisions of this section.

Constitution and laws of the United States made applicable to all the territories. Mont., 26 May, 1864.

SEC. 1891. The constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within all the organized territories, and in every territory hereafter organized, as elsewhere within the United States.

Penitentiaries. 10 Jan., 1871.

SEC. 1892. Any penitentiary which has been, or may hereafter be, erected by the United States in an organized territory shall, when the same is ready for the reception of convicts, be placed under the care and control of the marshal of the United States for the territory or district in which such penitentiary is situated, except as otherwise provided in the case of the penitentiaries in Montana, Idaho, Wyoming, and Colorado.

Rules for their government. 10 Jan., 1871.

SEC. 1893. The attorney general of the United States shall prescribe all needful rules and regulations for the government of such penitentiary, and the marshal having charge thereof shall cause them to be duly and faithfully executed and obeyed, and the reasonable compensation of the marshal and of his deputies for their services under such regulations shall be fixed by the attorney general.

Payment of marshal, &c., and of expenses of subsistence, &c., of offenders. Ibid.

SEC. 1894. The compensation, as well as the expense incident to the subsistence and employment of offenders against the laws of the United States, who have been, or may hereafter be, sentenced to imprisonment in such penitentiary, shall be chargeable on, and payable out of, the fund for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States; but nothing herein shall be construed to increase the maximum compensation now allowed by law to those officers.

SEC. 1895. Any person convicted by a court of competent jurisdiction in a territory, for a violation of the laws thereof, and sentenced to imprisonment, may, at

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the cost of such territory, on such terms and conditions as may be prescribed by such rules and regulations, be received, subsisted, and employed in such penitentiary during the term of his imprisonment, in the same manner as if he had been convicted of an offense against the laws of the United States.

Imprisonment in penitentiaries.
Ibid.

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CHAPTER TWO.

OF PROVISIONS CONCERNING PARTICULAR ORGANIZED TERRITORIES.

SECTIONS RELATING TO THE TERRITORY OF MONTANA.

Boundaries and establishment of Montana. 26 May, 1864.

SEC. 1903. All that part of the territory of the United States included within the following limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude; thence due west, on the forty-fifth degree of latitude, to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south, along the thirty-fourth degree of longitude, to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward, along the crest of the Bitter Root mountains, to its intersection with the thirty-ninth degree of longitude west from Washington; thence along the thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward, along that boundary line, to the twenty-seventh degree of longitude west from Washington; thence southward, along the twenty-seventh degree of longitude, to the place of beginning,—is created into a temporary government by the name of the territory of Montana.

Delegate to congress from Montana must be a citizen of the United States. Ibid.

SEC. 1906. The delegate to the house of representatives from each of the territories of Washington, Idaho, and Montana, must be a citizen of the United States.

The judicial power—how vested in Montana.

SEC. 1907. The judicial power in New Mexico, Utah, Washington, Colorado, Dakota, Idaho, Montana, and Wyoming shall be vested in a supreme court, district courts, probate courts, and in justices of the peace.

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SEC. 1909. Writs of error and appeals from the final decisions of the supreme court of either of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana, and Wyoming shall be allowed to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath of either party, or of other competent witnesses, exceeds five thousand dollars, exclusive of costs, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the supreme courts created by this title, or of any judge thereof, or of the district courts created by this title, or of any judge thereof, upon writs of *habeas corpus* involving the question of personal freedom.

Writs of error to United States supreme court. Ibid., 23 June, 1874.

SEC. 1910. Each of the district courts in the territories mentioned in the preceding section shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of the respective district courts, or so much thereof as is necessary, shall be appropriated to the trial of causes arising under such constitution and laws; but writs of error and appeals in all such cases may be had to the supreme court of each territory, as in other cases.

Jurisdiction of district courts under constitution, &c. Ibid.

SEC. 1914. The judges of the supreme courts of the territories of Idaho and Montana, or a majority of them, shall, when assembled at their respective seats of government, define the judicial districts of each of such territories, and assign the judges who may be appointed for each of such territories to the several districts; and shall also fix the times and places for holding court in the several counties or sub-divisions in each of such judicial districts, and alter the times and places of holding the courts, as to them may seem proper and convenient; but not less than two terms a year shall be held at each place of holding court in the territory of Montana.

Judges of supreme court in Idaho and Montana to define judicial districts, &c. Mont., 2 Mar., 1867.

SEC. 1926. Justices of the peace, in the territories of New Mexico, Utah, Dakota, and Wyoming, shall not have jurisdiction of any matter in controversy where the debt or sum claimed exceeds one hundred dollars.

Jurisdiction of justices of the peace in New Mexico, and other territories. Ibid.

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Jurisdiction of probate courts in Montana. 2 March, 1867.

SEC. 1932. The probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are authorized to hear and determine civil causes wherein the damage or debt claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of a grand jury; but they shall not have jurisdiction of any matter in controversy when the title or right to the peaceable possession of land may be in dispute, or of chancery or divorce causes; and in all cases an appeal may be taken from any order, judgment, or decree of the probate courts to the district court.

Legislative expenses in Washington, Idaho, and Montana. Mont., 26 May, 1864.

SEC. 1940. There shall be appropriated, respectively, for the territories of Washington, Idaho, and Montana, annually, a sufficient sum, to be expended by the secretary of each territory herein named, upon an estimate to be made by the secretary of the treasury, to defray the expenses of the legislative assembly and other incidental expenses. The governor and secretary of each territory above specified shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the secretary of the treasury, and shall, semi-annually, account to such secretary for the manner in which such sums of money have been expended.

No payment of salaries in certain territories until officers enter on their duties. Ibid.

SEC. 1941. No payment of salary shall be made to the governor, secretary, chief justice, and associate justices of Washington, Idaho, and Montana territories, until such officers have entered upon the duties of their respective appointments.

Mileage in Idaho and Montana. Ibid.

SEC. 1943. The members of the legislative assembly of Idaho and Montana territories shall each receive four dollars for every twenty miles' travel in going to and returning from the sessions of their respective bodies, estimated according to the nearest usually traveled route.

Seat of government; how changed in Idaho and Montana. Ibid.

SEC. 1945. The seat of government, when once fixed by the governor and legislative assembly of Idaho and Montana, respectively, shall not be at any time changed, except by an act of such assembly for each territory, respectively, duly passed and approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

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SEC. 1946. Sections numbered sixteen and thirty-six, in each township of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana, and Wyoming shall be reserved for the purpose of being applied to schools in the several territories herein named, and in the states and territories hereafter to be erected out of the same.

School lands in certain territories. Ibid.

SEC. 1951. All officers to be appointed by the president, by and with the advice and consent of the senate, for the territories of Washington, Idaho, and Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be intrusted to them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

Disbursing officers in Washington, Idaho, and Montana to give security. Ibid.

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SESSION LAWS OF CONGRESS

Relating to Government in Montana.

ENACTED SUBSEQUENT TO THE REVISION.

FORTY-THIRD CONGRESS. SESSION I. CHAPTER 80.—An act concerning the practice in territorial courts, and appeals therefrom

Preamble.

WHEREAS, by the organic acts establishing several of the territories of the United States, it is provided that certain courts thereof shall have common law and chancery jurisdiction, and doubts having been entertained whether said jurisdictions must be exercised separately, or whether they may be exercised together in the same proceeding, and whether the codes and rules of practice adopted in said territories which have authorized a mingling of said jurisdictions in the same proceeding, or a uniform course of proceeding in all cases, legal and equitable, are repugnant to the said organic acts respectively: therefore,

Common law and chancery jurisdiction of territorial courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that it shall not be necessary in any of the courts of the several territories of the United States to exercise separately the common law and chancery jurisdictions vested in said courts; and that the several codes and rules of practice adopted in said territories respectively, in so far as they authorize a mingling of said jurisdictions, or a uniform course of proceeding in all cases, whether legal or equitable, be confirmed; and that all proceedings heretofore had or taken in said courts, in conformity with said respective codes and rules of practice, so far as relates to the form and mode of proceeding, be, and the same are hereby, validated and confirmed: *Provided*, that no party has been or shall be deprived of the right of trial by jury in cases cognizable at common law.

Trial by jury.

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SEC. 2. That the appellate jurisdiction of the supreme court of the United States, over the judgments and decrees of said territorial courts in cases of trial by jury, shall be exercised by writ of error, and in all other cases by appeal, according to such rules and regulations as to form and modes of proceeding as the said supreme court has prescribed, or may hereafter prescribe: *Provided*, that on appeal, instead of the evidence at large, a statement of the facts of the case in the nature of a special verdict, and also the rulings of the court on the admission or rejection of evidence when excepted to, shall be made and certified by the court below, and transmitted to the supreme court, together with the transcript of the proceedings and judgment or decree; but no appellate proceedings in said supreme court, heretofore taken upon any such judgment or decree, shall be invalidated by reason of being instituted by writ of error or by appeal: *And provided further*, that the appellate may make any order in any case heretofore appealed, which may be necessary to save the rights of the parties; and that this act shall not apply to cases now pending in the supreme court of the United States where the record has already been filed.

Appellate jurisdiction of supreme court of United States; how exercised.

Proceedings on appeal.

Proviso.

Approved April 7, 1874.

IBID. CHAP. 332.—An act to amend the act entitled "an act transferring the control of certain territorial penitentiaries to the several territories in which the same are located," approved January twenty-fourth, eighteen hundred and seventy-three.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, that the act entitled "an act transferring the control of certain territorial penitentiaries to the several territories in which the same are located," approved January twenty-fourth, eighteen hundred and seventy-three, be, and the same is hereby, amended by striking out the words Montana, Idaho, and Wyoming, wherever the same occur in said act, and the said act shall hereafter have no applicability to the territories of Montana, Idaho, and Wyoming.

Penitentiaries in Montana, Idaho and Wyoming territories.

SEC. 2. That the penitentiaries in the territories of Montana, Idaho, and Wyoming shall continue under the care and control of the marshal of the United States for said territories, under and pursuant to the provisions of

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To continue under control of United States marshals.

the act entitled "An act in relation to certain territorial penitentiaries," approved January tenth, eighteen hundred and seventy-one; which said last-mentioned act is hereby revived and re-enacted so far as the same applies to the territories of Montana, Idaho, and Wyoming.

Approved June 20, 1874.

FORTY-THIRD CONGRESS. SESSION II, CHAPTER 114. An act to protect all citizens in their civil and legal rights.

Preamble.

WHEREAS, it is essential to just government we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law: therefore,

Equal enjoyment of inns, public conveyances, theatres, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

Forfeit to person aggrieved by denial of equal enjoyment of inns, &c.

SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall also, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year: *Provided*, that all persons may elect to sue for the penalty aforesaid or to proceed under their rights at common law and by state statutes; and having so elected

Punishment for denying, &c.

Election of remedies.

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to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this proviso shall not apply to criminal proceedings, either under this act or the criminal law of any state: *And provided further*, that a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution, respectively.

Effect of recoveries.

SEC. 3. That the district and circuit courts of the United States shall have, exclusively of the courts of the several states, cognizance of all crimes and offenses against, and violations of, the provisions of this act; and actions for the penalty given by the preceding section may be prosecuted in the territorial, district, or circuit courts of the United States wherever the defendant may be found, without regard to the other party; and the district attorneys, marshals, and deputy marshals of the United States, and commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting and imprisoning or bailing offenders against the laws of the United States, are hereby specially authorized and required to institute proceedings against every person who shall violate the provisions of this act, and cause him to be arrested and imprisoned or bailed, as the case may be, for trial before such court of the United States, or territorial court, as by law has cognizance of the offense, except in respect of the right of action accruing to the person aggrieved; and such district attorneys shall cause such proceedings to be prosecuted to their termination as in other cases: *Provided*, that nothing contained in this section shall be construed to deny or defeat any right of civil action accruing to any person, whether by reason of this act or otherwise; and any district attorney who shall willfully fail to institute and prosecute the proceedings herein required shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action of debt, with full costs, and shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not less than one thousand nor more than five thousand dollars: *And provided further*, that a judgment for the penalty in favor of the party aggrieved against any such district attorney, or a judgment upon an indictment against any such district attorney, shall be a bar to either prosecution respectively.

Jurisdiction of courts under this act.

Duty of district attorneys, marshals, and commissioners under this act.

Right of civil action not affected.

Failure of district attorney to prosecute.

Effect of judgment against district attorney.

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Exclusion from service as juror.

SEC. 4. That no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any state, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars.

Penalty for excluding, &c.

Review in supreme court.

SEC. 5. That all cases arising under the provisions of this act in the courts of the United States shall be reviewable by the supreme court of the United States without regard to the sum in controversy, under the same provisions and regulations as are now provided by law for the review of other causes in said court.

Approved March 1, 1875.

Salaries of territorial officers, when to commence.

FORTY-FOURTH CONGRESS. SESSION I. CHAP. 88. EXTRACT. * * * * And hereafter payment of salaries of all officers of the territories of the United States appointed by the president, shall commence only when the person appointed to any such office shall take the proper oath, and shall enter upon the duties of such office in such territory; and said oath shall hereafter be administered in the territory in which such office is held.

Oaths, where administered.
1 May, 1876.

Sessions of legislature.
15 Aug., 1876.

IBID. CHAP. 287. EXTRACT. Territory of Montana: * * * * *Provided*, that the next legislative assembly shall convene at the seat of government of the territory on the second Monday of January, eighteen hundred and seventy-seven, and biennially thereafter.

Desert lands may be purchased.

Declaration.

FORTY-FOURTH CONGRESS. SESSION II. CHAP. 107. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, that it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," and upon payment of twenty-five cents per acre—to file a declaration, under oath, with the register and receiver of the land district in which any desert

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land is situated, that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same, within the period of three years thereafter: *Provided, however*, that the right to the use of water by the person so conducting the same, on or to any tract of desert land of six hundred and forty acres, shall depend upon *bona fide* prior appropriation; and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land, if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any time within a period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land, in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: *Provided*, that no person shall be permitted to enter more than one tract of land, and not to exceed six hundred and forty acres, which shall be in compact form.

3 March, 1877.

Right to use water.

Water on public lands to be free.

Contents of declaration.

Perfection of title.

Limit to quantity of land purchasable.

SEC. 2. That all lands exclusive of timber lands and mineral lands, which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses, under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated.

Desert lands defined.

SEC. 3. This act shall only apply to and take effect in the states of California, Oregon, and Nevada, and the territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the commissioner of the general land office.

Localities in which act to apply.

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FORTY-FIFTH CONGRESS. SESSION II. CHAP. 37. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, that in the trial of all indictments, informations, complaints, and other proceedings against persons charged with the commission of crimes, offenses, and misdemeanors, in the United States courts, territorial courts, and courts-martial, and courts of equity, in any state or territory, including the District of Columbia, the person so charged shall, at his own request, but not otherwise, be a competent witness. And his failure to make such request shall not create any presumption against him.

Accused persons may testify.
16 Mch., 1878.

IBID. CHAP. 76. EXTRACT. * * * * * *And provided further*, that where wood and timber lands in the territories of the United States are not surveyed and offered for sale in the proper sub-divisions, convenient of access, no money herein appropriated shall be used to collect any charge for wood or timber cut on the public lands in the territories of the United States for the use of actual settlers in the territories, and not for export from the territories of the United States, where the timber grew: *And provided further*, that if any timber cut on the public lands shall be exported from the territories of the United States, it shall be liable to seizure by the United States authority wherever found.

Wood cut on unsurveyed land.
30 April, 1878.

IBID. CHAP. 150. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, that all the citizens of the United States, and other persons *bona fide* residents of the states of Colorado or Nevada, or either of the territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States shall be, and are hereby, authorized and permitted to fell and remove for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said states, territories, or districts, of which such citizens or persons may be at the time *bona fide* residents, subject to such rules and regulations as the secretary of the interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and

Timber and mineral lands may be taken for certain purposes.
3 June, 1878.

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for other purposes: *Provided*, the provisions of this act shall not extend to railroad corporations. Proviso.

SEC. 2. That it shall be the duty of the register and the receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purposes authorized by this act, within their respective land districts; and, if so, they shall immediately notify the commissioner of the general land office of the fact; and all necessary expenses incurred in making such proper examinations shall be paid and allowed such register and receiver in making up their next quarterly accounts. Taking, &c., for unauthorized purposes.

SEC. 3. Any person or persons who shall violate the provisions of this act, or any rules and regulations in pursuance thereof made by the secretary of the interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months. Penalty.

IBID. CHAP. 168. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, that the words "the legislative assemblies of the several territories shall not grant private charters or especial privileges" in section eighteen hundred and eighty-nine of the revised statutes of the United States shall not be construed as prohibiting the legislative assemblies of the several territories of the United States from creating towns, cities, or other municipal corporations, and providing for the government of the same, and conferring upon them the corporate powers and privileges, necessary to their local administration, by either general or special acts; and that all general and special acts of such legislative assemblies heretofore passed creating and providing for the government of towns, cities, or other municipal corporations, and conferring such rights, powers, and privileges upon the same, as were necessary to their local administration, be, and the same are hereby, ratified and confirmed and declared to be valid, any law to the contrary notwithstanding; subject, however, to amendment or repeal hereafter by such territorial assemblies. But nothing Municipal corporations in territories. 8 June, 1878. Sec. 1889, R. S., page 133, construed.

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Private rights. herein shall have the effect to create any private right, except that of holding and executing municipal offices or to divest any such right, or to make valid or invalid Contracts, any contract or obligation heretofore made by or on behalf of any such town, city, or other municipal corporation, or to authorize any such corporation to incur Corporation debts. hereafter any debt or obligation other than such as shall be necessary to the administration of its internal affairs.

IBID. CHAP. 329. EXTRACT. * * * * * * * *

Councils and houses of representatives in territories 19 June, 1878. That from and after the adjournment of the next session of the several territorial legislatures the council of each of the territories of the United States shall not exceed twelve members, and the house of representatives of each shall not exceed twenty-four members, and the members Number. of each branch of the said several legislatures shall receive a compensation of four dollars per day each during the sessions provided by law, and shall receive such mileage as the law provides; and the president of the council and the speaker of the house of representatives Compensation. shall each receive six dollars per day for the same time. And the several legislatures at their next sessions are Districts. directed to divide their respective territories into as many council and representative districts as they desire, which districts shall be as nearly equal as practicable, taking into consideration population, except "Indians Proviso. not taxed:" *Provided*, the number of council districts shall not exceed twelve, and the representative districts shall not exceed twenty-four in any one of said territories, and all parts of sections eighteen hundred and forty-seven, eighteen hundred and forty-nine, eighteen hundred and fifty-three, and nineteen hundred and twenty-two of the revised statutes of the United States in conflict with the provisions herein are repealed.

That the subordinate officers of each branch of said territorial legislatures shall consist of one chief clerk, who shall receive a compensation of six dollars per day; one enrolling and engrossing clerk, at five dollars per day; sergeant-at-arms and doorkeeper, at five dollars per day; one messenger and watchman, at four dollars Officers of legislatures. Salaries. per day each; and one chaplain, at one dollar and fifty cents per day. Said sums shall be paid only during the sessions of said legislatures; and no greater number of officers or charges per diem shall be paid or allowed by

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the United States to any territory. And section eighteen hundred and sixty-one of the revised statutes is hereby repealed, and this substituted in lieu thereof: *Provided*, that for the performance of all official duties imposed by the territorial legislatures, and not provided for in the organic act, the secretaries of the territories, respectively, shall be allowed such fees as may be fixed by the territorial legislatures. And in no case shall the expenditures for public printing in any of the territories exceed the sum of two thousand five hundred dollars for any one year.

Secretary's fees.

Printing.

IBID. CHAP. 362. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, that the right of way through the public lands of the United States and other privileges heretofore granted by law to the Utah Northern railroad company are hereby modified and regranted so as to enable the Utah and Northern railway company and its assigns to build their road by the way of Marsh valley, Portneuf river, and Snake river valley, instead of by the way of Soda Springs and Snake river valley as originally granted.

Utah & Northern Railway Company. 20 June, 1878.

Right of way modified.

SEC. 2. And said company is hereby made a railway corporation in the territories of Utah, Idaho, and Montana, under the same conditions and limitations and with the same rights and privileges that it now has and enjoys under its articles of incorporation: *Provided*, that said corporation shall at all times hereafter be subject to all the laws and regulations in relation to railroads of the United States or of any territory or state through which it may pass. And suits against said corporation may be instituted in the courts of said territories or either of them having jurisdiction by the laws of such territory.

To be a corporation in Utah, Idaho, and Montana.

Proviso.

Suits.

SEC. 3. Congress may at any time add to, alter, amend, or repeal this act.

Amendments.

FORTY-SIXTH CONGRESS. SESSION II. CHAP. 56. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, that when, from any cause, there shall be a vacancy in the office of justice of the peace in any of the territories of the

April 16, 1880.

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Justices of the peace in the territories—filling vacancies in office of.

United States, it shall be lawful to fill such vacancy by appointment or election, in such manner as has been or may be provided by the governor and legislative assembly of such territory: *Provided*, that such appointee, or person elected to fill such vacancy, shall hold office only until his successor shall be regularly elected and qualified as provided by law.

Proviso.

IBID. CHAP. 235. EXTRACT. * * * * * * * *

Care and custody of convicts of any territory contracted for in any other territory or state.

That the legislative assemblies of the several territories of the United States may make such provisions for the care and custody of such persons as may be convicted of crime under the laws of such territory as they shall deem proper; and for that purpose may authorize and contract for the care and custody of such convicts in any other territory or state, and provide that such person or persons may be sentenced to confinement accordingly in such other territory or state; and all existing legislative enactments of any of the territories for that purpose are hereby legalized: *Provided*, that the expense of keeping such prisoners shall be borne by the respective territories, and no part thereof shall be borne by the United States.

Proviso.

[PUBLIC—No. 6.]

AN ACT amending section 1852 of the Revised Statutes of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 1852 be, and the same hereby is, so amended as to read as follows:

Length of sessions of legislative assemblies of the several territories limited to sixty days.

SEC. 1852. The sessions of the legislative assemblies of the several territories of the United States shall be limited to sixty days' duration.

Approved December 23, 1880.

FORTY-SEVENTH CONGRESS. SESSION I. CHAP. 389. EXTRACT. * * * * * And hereafter no expense for printing exceeding three thousand seven hundred and fifty dollars, including printing laws, journals, bills, and necessary printing of the same nature, shall be incurred for any session of the legislature of any of the territories.

Expenses for printing for the several territories limited to $3,750 for each session.

Approved August 5, 1882.

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[PUBLIC—NO. 101.]

AN ACT regulating appeals from the supreme court of the District of Columbia and the supreme courts of the several territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that no appeal or writ of error shall hereafter be allowed from any judgment or decree in any suit at law or in equity in the supreme court of the District of Columbia, or in the supreme court of any of the territories of the United States, unless the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars.

Limiting the amount of claim for which appeals can be taken from the supreme court of any of the territories to the supreme court of the United States.

SEC. 2. That the preceding section shall not apply to any case wherein is involved the validity of any patent or copy-right, or in which is drawn in question the validity of a treaty or statute of or an authority exercised under the United States; but in all such cases an appeal or writ of error may be brought without regard to the sum or value in dispute.

Exceptions.

Approved March 3, 1885.

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GENERAL LAWS OF MONTANA.

Enacted by the Fourteenth Legislative Assembly.

ACKNOWLEDGMENTS—JURATS.

AN ACT concerning official duties.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. If any officer or officers within the limits of the territory of Montana shall sign any jurat, purporting to be a certificate that any other person has taken or subscribed before him on oath, without actually administering to such person such oath, or shall sign any such jurat or certificate in blank, or shall sign any acknowledgment of an instrument or conveyance, purporting to state that some other person has acknowledged the same, as therein described, when in fact such person has not made such acknowledgment, or shall sign such acknowledgment in blank, the person or persons so offending shall be deemed guilty of a misdemeanor; and, being thereof convicted, shall be subject to a punishment of not less than one hundred dollars fine, and be imprisoned in the county jail not less than ten days, nor more than one hundred days, and shall be liable, personally, and upon his official bond, to its amount hereafter given to any person or persons who shall suffer thereby in such damage as such person or persons shall suffer.

Persons to whom an oath purports to be administered must be personally present.

Signing jurats in blank prohibited.

Penalty for so doing.

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SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

ANIMALS—CONTAGIOUS DISEASES.

AN ACT to suppress and prevent the dissemination of contagious and infectious diseases among domestic animals and Texas cattle.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the governor of the territory is hereby authorized to nominate, and by and with the advice and consent of the council, appoint a competent veterinary surgeon, who shall be known as the "Territorial Veterinary Surgeon;" and, on entering on his duties, shall take an oath to well and truly perform his duties, as provided by law.

Governor to appoint a veterinary surgeon.

SEC. 2. The duties of said territorial veterinary surgeon shall be as follows:

First. To investigate any and all cases of contagious or infectious diseases among cattle, horses, mules, and asses, in this territory, of which he may have a knowledge, or which may be brought to his notice by any resident in the locality where such disease exists; and it shall be his duty, in the absence of specific information, to make visits of inspection to any locality where he may have reason to suspect that there is contagious or infectious diseases.

Duties of veterinary surgeon.

Second. To inspect, under the regulations of this act, all cattle, horses, mules, and asses, which may be brought into this territory, in any manner whatever, from or through such state, territory, or foreign country, as the governor shall declare by proclamation upon the recommendation of the board of stock commissioners, or otherwise be held in quarantine for purposes of inspection for contagious or infectious diseases. And after the making of such proclamation it shall be the duty of the owner or person in charge of any cattle, horses, mules, or asses, arriving in this territory, from or through any state, territory, or foreign country, against which quarantine has

Duties of owners of cattle driven from sections quarantined.

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been declared, to notify the territorial veterinary surgeon without delay, and not to allow such animals, or any of them, to leave the place of arrival until they shall have been examined by the said surgeon, and his certificate obtained that all are free from disease; and no animal pronounced unsound from disease by the territorial veterinary surgeon shall be turned loose, or allowed to run at large, or removed or permitted to escape, but shall be held subject to the order of the territorial veterinary surgeon. Any person failing to comply with this provision shall be deemed guilty of a misdemeanor; and, upon conviction, shall be fined not less than fifty nor more than five hundred dollars for each offense, and shall be liable for any damage and loss that may be sustained by any person or persons by reason of the failure of such owner or agent to comply with the provisions of this section: *Provided*, that the owner of horses, mules, or asses, ridden under the saddle or driven in harness into this territory, or the owner of oxen driven into this territory under the yoke, and any person coming into this territory with his own team or teams, shall not be required to notify the territorial veterinary surgeon, or await the inspection of such work-oxen, team, or teams, but he shall be liable for all loss or damage to any person or persons from or by reason of any contagious or infectious disease brought into the territory by his animals; and no cattle, horses, mules, or asses shall be held in quarantine in this territory for a longer period than ninety (90) days, unless contagious or infectious disease shall be found to exist among them.

No unsound animals to be turned loose.

Certain stock exempted from inspection.

SEC. 3. In all cases of contagious or infectious disease among domestic animals or Texas cattle in this territory, the territorial veterinary surgeon shall have authority to order the quarantine of the infected premises, and in case such disease shall become epidemic in any locality in this territory, the territorial veterinary surgeon shall immediately notify the governor of the territory, who shall thereupon issue his proclamation forbidding any animal of the kind among which said epidemic exists to be transferred from said locality without a certificate from the territorial veterinary surgeon showing such animal to be healthy. The expenses of holding, feeding, and taking care of all animals quarantined under the provisions of this act, shall be paid by the owner, agent, or person in charge of said stock.

Veterinary surgeon authorized to quarantine cattle in this territory.

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SEC. 4. In case of any epidemic disease where premises have been previously quarantined by the territorial veterinary surgeon as before provided, he is further authorized and empowered, when in his judgment necessary, to order the slaughter of any or all diseased animals upon said premises, and of all animals that have been exposed to contagion or infection, under the following restrictions: Said order shall be a written one, and shall be made in duplicate, and there shall be a distinct order and duplicate for each owner of the animals condemned, the original of each order to be filed by the territorial veterinary surgeon with the secretary of the territory, and the duplicate given to said owner. And, further, before slaughtering any animal or animals that have been exposed only, and do not show disease, the territorial veterinary surgeon shall call in consultation with him two respectable practicing veterinarians or physicians, residents of the territory, or, if this is impossible, then two reputable and well-known stock owners, residents of the territory, and shall have written indorsements upon his order of at least one of said consulting physicians or stock owners, stating that said action is necessary, before such animal or animals shall be slaughtered.

May order killing of animals.

SEC. 5. Whenever, as herein provided, the territorial veterinary surgeon shall order the slaughter of one or more animals, he shall, at the time of making such order, notify in writing the nearest justice of the peace, who shall thereupon summon three disinterested citizens, who shall be stock owners of the neighborhood, to act as appraisers of the value of such animals. Said appraisers, before entering upon the discharge of their duties, shall be sworn to make a true and faithful appraisement, without prejudice or favor. They shall, after making their appraisement, return certified copies of their valuation, a separate one being made for each owner, together with an accurate description of each animal slaughtered (giving all brands, ear marks, wattles, age, sex, and class, as to whether American, half-breed, or Texas), to the justice of the peace by whom they were summoned, who shall, after entering the same upon his record and making an indorsement upon each showing it to have been properly recorded, return it, together with the duplicate order of the territorial veterinary surgeon, to the person or persons owning the animals slaughtered; and it shall be the

A jury of three persons shall appraise the value of animals killed.

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duty of the territorial veterinary surgeon to superintend the slaughter of such animals as may be condemned, and also the destruction of the carcass, which latter shall be by burning to ashes, and shall include every part of the animal and hide, and also excrement as far as possible. He shall cause the said slaughter and burning to be done as cheaply as practicable.

Veterinary surgeon shall report annually to the governor at the end of each year.

SEC. 6. The territorial veterinary surgeon shall make a report at the end of every year to the governor of all matters connected with his work, and the governor shall transmit to the several boards of county commissioners such parts of said report as may be of general interest to the breeders of live stock. The governor shall also give information in writing, as soon as he obtains it, to the various boards of county commissioners of each cause of suspicion or fresh eruption of disease, in each locality, its cause, and the measures adopted to check it.

Governor may prohibit importation of animals from infected districts in other states and territories.

SEC. 7. Whenever the governor of the territory shall have good reason to believe that any disease covered by this act has become epidemic in certain localities in another state or territory, or that conditions exist which render domestic animals and Texas cattle liable to convey disease, he shall thereupon, by proclamation, schedule such localities, and prohibit the importation from them of any live stock of the kind diseased into this territory, except under such restrictions as he, after consultation with the territorial veterinary surgeon, may deem proper. Any corporation or any person or persons who, after the publication of such proclamation, shall knowingly receive in charge any such animal or animals from any one of said prohibited districts, and transport or convey the same within the limits of this territory, shall be deemed guilty of a misdemeanor; and, upon conviction, be fined not less than one thousand dollars and not more than ten thousand dollars for each and every offense, and shall further become liable for any and all damages and loss that may be sustained by any person or persons by reason of the importation or transportation of such prohibited animals.

Penalty for disregarding quarantine.

SEC. 8. It shall be the duty of any person or persons who shall have or suspect that there is upon his or their premises, or upon the public domain, any case of contagious or infectious disease among horses, mules, cattle,

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or asses, to immediately report the same to the territorial veterinary surgeon, and a failure so to do, or any attempt to conceal the existence of such diseases, or to willfully or maliciously obstruct or resist the said territorial veterinary surgeon in the discharge of his duty as hereinbefore set forth, shall be deemed a misdemeanor, and any person or persons who shall be convicted of any one of the above acts or omissions shall be fined not less than fifty dollars, nor more than five hundred dollars, for each and every such offense, and shall forfeit all claims to indemnity for loss from the territory; and, upon conviction a second time, shall, in addition to the above-named fine, be imprisoned in the county jail for a term not less than thirty days nor more than six months.

The owners of animals suspected of being diseased to report.

SEC. 9. The following regulations shall be observed in all cases of disease covered by this act:

First. It shall be unlawful to sell, give away, or in any manner part with, any animal affected with, or suspected of being affected with, contagious or infectious disease; and in case of any animal that may be known to have been affected with or exposed to any such disease, within one year prior to such disposal, due notice of the fact shall be given in writing to the party receiving the animal.

Prohibited from selling diseased animals, or those suspected of being diseased.

Second. It shall be unlawful to kill for butcher purposes any such animal, to sell, give away, or use any part of it, or its milk, or to remove any part of the skin. A failure to observe these provisions shall be deemed a misdemeanor; and, on conviction, shall be punished by a fine not less that one hundred dollars, nor exceeding five hundred dollars. It shall be the duty of the owner or person having in charge any animal affected with, or suspected of being affected with, any contagious or infectious disease, to immediately confine the same in a safe place, isolated from other animals, and with all necessary restrictions to prevent dissemination of the disease, until the arrival of the territorial veterinary surgeon. The above regulations shall apply as well to animals in transit through the territory as to those resident therein; and the territorial veterinary surgeon, or his duly authorized agent, shall have full authority to examine, whether in car or yards or pastures or stables or upon the public

Prohibited from killing diseased animals for the purpose of sale.

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domain, all animals passing through the territory or any part of it, and, on detection or suspicion of disease, to take possession of and treat and dispose of said animals in the said manner as is prescribed for animals resident in the territory.

Claims for value of animals killed to be submitted to territorial auditor for adjustment.

SEC. 10. All claims against the territory arising from the slaughter of animals under the provisions of this act, shall, together with the order of the territorial veterinary surgeon, and the valuation of the appraisers, in each case be submitted to the territorial auditor, who shall examine them without unnecessary delay, and for each one that he finds to be equitable and entitled to indemnity under this act, shall issue his warrant on the stock indemnity fund in the hands of the territorial treasurer for the sum named in the appraisers' report to the person so entitled thereto. In auditing any claim under this act it shall be the duty of the auditor to satisfy himself that it does not come under any class for which indemnity is refused by this act, and he shall require the affidavit of the claimant to this fact; or if the claimant be not cognizant thereof, then of some reputable person who is cognizant thereof; and also the certificate of the territorial veterinary surgeon, whose duty it shall be to inform himself fully of the facts, that in his opinion the claim is legal and just, and the auditor may at his discretion require further proof.

Two-thirds value of animals killed to be paid by the territory.

The indemnity to be granted shall be two-thirds of the ordinary value of the animal as determined by the appraisers, without reference to its diminished value because of being diseased. It shall be paid to the owner upon his application and the presentation of the proofs prescribed herein; and it shall be the duty of said owner to make such application within six months after the slaughter of the animal for which payment is claimed, failing which, such claim shall be barred by limitation. These payments shall be made by the territorial treasurer as before provided, and from the fund provided by this act.

Right to indemnity limited.

The right to indemnity under this act is limited to animals destroyed by reason of the existence or suspected existence of some epizootic disease, generally fatal and incurable, such as rinderpest, hoof and mouth disease,

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pleuro-pneumonia, anthrax, or Texas fever, among bovines, and glanders among horses. For the ordinary contagious diseases not in their nature fatal, such as epizootic influenzas in horses, no indemnity shall be paid.

The right to indemnity shall not exist, and payment of such shall not be made, in the following cases:

First. For animals belonging to the United States.

Certain animals not to be paid for.

Second. For animals that are brought into the territory contrary to the provisions of this act.

Third. For animals that are found to be diseased, or that are destroyed because they have been exposed to disease, before or at the time of their arrival in the territory.

Fourth. When an animal was previously affected by any other disease which, from its nature and development, was incurable and necessarily fatal.

Fifth. When the owner or person in charge shall have knowingly or negligently omitted to comply with the provisions of sections eight and nine of this act.

Sixth. When the owner or claimant at the time of coming into possession of the animal knew it to be diseased, or received the notice specified in the first clause of section nine of this act.

Seventh. When the animal or animals have been brought into the territory within sixty days immediately preceding the outbreak of disease among or upon them.

SEC. 11. The territorial veterinary surgeon shall receive for his services the sum of three thousand dollars per annum, together with his actual necessary traveling expenses when in performance of his duty. These payments shall be made from the funds in the territorial treasury, upon vouchers signed and sworn to by him, and submitted to the territorial auditor, who shall draw warrants upon the territorial treasurer, for the amounts if found correct; separate vouchers being made for salary and expenses. No person shall be competent under this

Compensation of veterinary surgeon.

From what fund paid.

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act to receive the appointment of territorial veterinary surgeon who is not at the date of his appointment a graduate in good standing of a recognized college of veterinary surgeons, either in the United States, Canada, or Europe. He shall hold his office for two years; he may be removed for cause by the governor, who shall also have power to fill the vacancy as hereinbefore provided. The appraisers herein provided for shall each receive three dollars for each day or part of a day they may be actually employed as such, which shall be paid from the territorial treasury, out of the stock indemnity fund hereinafter provided, upon vouchers which bear the certificate of the justice who summoned them. The justice shall receive his ordinary fee for issuing a summons, to be paid out of the county fund. The members of the board of health, veterinarians, physicians, or stock owners, called in consultation by the territorial veterinary surgeon, shall each receive three dollars for each day or part of a day they may be actually so employed, and ten (10) cents per mile mileage for distances actually traveled, which sums shall be paid from the territorial treasury out of the stock indemnity fund hereinafter provided for, upon vouchers certified to by the territorial veterinary surgeon, and other incidental expenses connected with his work, and made his duty by this act, such as causing animals to be slaughtered, and their carcasses to be burned, and disinfecting infected premises, shall be paid from the territorial treasury, out of the stock indemnity fund hereinafter provided for, upon vouchers certified to by him. Before entering upon the discharge of his duties he shall give good and sufficient surety in the sum of five thousand dollars for the proper management of the same. No constructive mileage shall be paid under this act, nor shall the territorial veterinary surgeon receive any mileage.

Certain persons not eligible to the office of veterinary surgeon.

Compensation of persons called in consultation.

Bond to be given by veterinary surgeon.

SEC. 12. The liability of the territory for indemnity for animals destroyed, and for fees, costs, and expenses incurred, under the provisions of this act, in any year, is limited by, and shall in no case exceed, the amount especially designated for that purpose and for that period, by the terms of this act; nor shall the veterinary surgeon or any one else incur any liability on [the] part of the territory, under the provisions of this act, in excess of the surplus in the stock indemnity fund hereinafter provided; nor shall any act be performed or property

Liability of territory limited.

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taken, under the provisions of this act, that will become a charge against the territory of Montana further than to the extent provided by said stock indemnity fund.

County commissioners to levy a tax for the "stock indemnity fund."

SEC. 13. Hereafter it shall be the duty each year of the county commissioners of all the counties of the territory, at the time of making the annual assessment, to levy a special tax not exceeding one-half (½) of one (1) mill on the dollar upon the assessed value of all cattle, horses, mules, and asses in the territory, to be known as the "stock indemnity fund;" said tax shall be levied and collected by the several counties, and paid to the territorial treasurer in the manner provided by law for the levying, collection, and payment of other territorial taxes; said fund shall constitute the indemnity fund specified by this act to be used in paying for animals destroyed, and for fees, costs, and expenses provided under the provisions therefor. It shall be used exclusively for that purpose, and shall be paid out by the territorial treasurer as herein provided for.

SEC. 14. The territorial veterinary surgeon shall select the place or places where stock shall be quarantined.

Fines collected to be paid into the county treasury.

SEC. 15. All fines collected under the provisions of this act shall be paid into the general fund of the county in which such case is prosecuted.

Certain amount in value of stock exempt from this tax.

SEC. 16. It shall be the duty of the county commissioners of all the counties in the territory, at their next regular meeting after the passage of this act, to levy the special tax for the year eighteen hundred and eighty-five (1885) of one-half mill, as hereinbefore provided, which shall be collected and paid into the territorial treasury in the same manner as other territorial taxes: *Provided*, where any person owns not exceeding five hundred dollars in value of horses, cattle, or mules, the same shall be exempt from taxation under the provisions of this act.

Repealing clause.

SEC. 17. Section 13 of the fifth division of the revised statutes of Montana, and all other acts and parts of acts, in conflict with the provisions of this act, be and the same are hereby repealed.

SEC. 18. The territorial veterinary surgeon shall have the power to appoint from time to time, deputies, not

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exceeding two in number, at any time he cannot personally attend to all the duties required by his office, at a salary not to exceed five dollars per day for each day actually employed, to be paid out of said stock indemnity fund, and shall designate the county or counties for which each deputy is to act. All acts performed by such deputies shall have the same effect as if done by the territorial veterinary surgeon.

Veterinary surgeon may appoint deputies.

Compensation of deputies.

SEC. 19. This act to take effect and be in force from and after its passage.

When to take effect.

Approved March 10, 1885.

ARREST AND EXAMINATION.

AN ACT to amend section 77, of chapter 6, of the "Criminal Practice Act," of the revised statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 77 of chapter 6 of the "Criminal Practice Act" of this territory be amended to read as follows:

SEC. 77. When a complaint is made before any magistrate, charging any person with the commission of a public offense, it shall be the duty of such magistrate to examine the complainant under oath touching his knowledge of the commission of such offense. If from such evidence, and other facts which may lawfully come to the knowledge of such magistrate, it shall appear to him that probable cause exists to support the belief that the alleged offense has been committed within his jurisdiction, and that the accused party has committed said offense, such magistrate shall immediately issue his warrant to any peace officer having authority to make arrests in his county, commanding him to forthwith arrest such offender at any place in the territory, and bring him before such magistrate; or, in case he shall be unable to act, before some other magistrate within the county, to be dealt with according to law.

Magistrate to examine person making complaint under oath.

If he believes the evidence sufficient he shall issue a warrant for arrest of offender.

Offender may be brought before said magistrate, or some other magistrate.

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SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 6, 1885.

ASSESSMENT LIFE INSURANCE COMPANIES.

AN ACT regulating assessment life insurance companies.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That corporations, associations, or societies, for the purpose of furnishing life indemnity or pecuniary benefits to the widows, orphans, heirs, or relatives, by consanguinity or affinity, devisees or legatees of deceased members, or accident or permanent disability indemnity to members thereof, and where the funds for the payment of such benefits shall be secured in whole or in part by assessment upon the surviving members, may be organized or do business in the territory of Montana, subject to the conditions hereinafter provided, when such corporation, association, or society, shall show by a sworn statement, a guarantee fund of not less than $20,000 for the benefit and security of the policy holders, or those holding certificates of life indemnity.

May do business by complying with this act.

SEC. 2. Any five or more persons, citizens of the United States, a majority of whom shall be *bona fide* citizens and voters of this territory, may associate themselves together as a body corporate, for which purpose they shall make, sign, and acknowledge, before any officer authorized to take acknowledgments of deeds in this territory, a certificate of association, in which shall be stated the name or title by which such corporation, association, or society, shall be known in law; the location of its principal business office, which office must be located in this territory; the name and residence of the incorporators; the object of the corporation, with its plan of doing business clearly and fully defined; the number of its directors, trustees, or managers, and the names of those selected to serve until its first annual meeting; the limits as to age of applicants for membership, which must be between the ages of sixteen and sixty-five, and that strict medical examinations are required; and that *bona fide* applications have been secured for at least $500,000, by

A majority of the incorporators must be citizens of this territory.

Limits age of applicants for membership.

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not less than two hundred persons; and two [per] cent. on such insurance, together with said guarantee fund of $20,000, has been paid into the treasury, and deposited in trust for the benefit of the beneficiaries of such corporation, association, or society, which certificate of association shall be submitted to the territorial auditor, who shall carefully examine the same, and, if he shall find that the objects and purposes are fully and definitely set forth, and are clearly within the provisions of this act, and that the name or title is not the same, or does not so closely resemble a title in use as to have a tendency to mislead the public, shall approve the same. If for either of the aforesaid, or other good and sufficient reasons, the said auditor shall be unwilling to approve the certificate of association, he shall immediately inform the incorporators of the fact, stating his objections fully in writing. If the certificate is sufficient and satisfactory, the said auditor shall indicate his approval thereof under his hand and official seal, and shall forthwith file the same, together with the certificate of association, and other papers accompanying it, in the office of the territorial auditor.

Name of company must not be similar to one already organized.

SEC. 3. Upon the filing of the papers as aforesaid the territorial auditor shall issue a certificate of organization of the corporation, association, or society, making as a part thereof a copy of all papers filed in his office in and about the organization thereof, and duly authenticated under his hand and seal of the territory; and the same shall be recorded in a book kept for that purpose in the office of the recorder of deeds of the county in which the principal place of business of such corporation, association, or society is located.

Territorial auditor to issue certificate.

SEC. 4. A corporation, association, or society, organized under the provisions of this act, shall be a body corporate and politic, by the name stated in the certificate of organization, and by that name they and their successors may have succession, and shall be persons in law capable of suing and being sued; and may have power to make and enforce contracts in relation to the legitimate business of their corporation, association, or society; may have and use a common seal, and may change and alter the same at pleasure, and they and their successors in their corporate name shall in law be capable of taking, purchasing, holding, and disposing of real and personal estate for the

May hold and dispose of real and personal property.

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purpose of their association or society; may make by-laws, not inconsistent with the organic act and laws of this territory, or the constitution and laws of the United States, which by-laws shall define the manner and form of electing directors, trustees, or managers and officers of the corporation, association, or society, and the qualifications and duties of the same, with terms of office, not exceeding three years, and also the qualifications and privileges of the members thereof.

Number of directors to be not less than five.

SEC. 5. The affairs of all corporations, associations, or societies, organized or doing business under the provisions of this act, shall be managed by not less than five directors, trustees, or managers, a majority of whom shall be residents of this territory, who shall be elected from and by the members at such time and place, and for such period, not exceeding three years, as may be provided for in the by-laws, and may be eligible for re-election: *Provided*, that, as near as practicable, an equal number shall be elected each year. Whenever directors, trustees, or managers shall be elected a certificate under the seal of the corporation, giving the name and residence of those elected, and the term of their office, shall be recorded in the office of the recorder of deeds where the certificate of organization is recorded. Vacancies in the board of directors, trustees, or managers shall be filled in the manner provided in the by-laws, and upon filling any vacancy a like certificate shall be recorded.

Must state object for which assessment is made.

SEC. 6. Assessment notices sent to members by any association or corporation doing business under the provisions of this act shall state the object or objects for which the money to be collected is intended; and no part of the funds collected for the payment of death benefits shall be applied for any other purpose.

Penalty for falsely certifying to bodily condition of applicant for membership.

SEC 7. Any agent, physician, or other person, who shall knowingly secure, or cause to be secured, a certificate of membership on any person, without his knowledge or consent, or by means of misrepresentations, false, fraudulent, or untrue statements, be instrumental in securing a certificate of membership on any aged or infirm person, or in restoring to membership any person not in an insurable condition, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than one hundred dollars nor more than one

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thousand dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, or both, in the discretion of the court; and said certificate or renewal so secured shall be absolutely void.

SEC. 8. All corporations, associations, or societies, transacting business under the provisions of this act, may provide by by-laws for the accumulation of a surplus, general or guarantee fund, which may be invested only in the corporate name of the association or society, in the United States, state, territorial, or other first-class convertible bonds or stocks, upon which interest has not been in default. Such funds, when so set apart and so invested, shall, with the increase thereof, belong to such corporation, association, or society, and not to the directors, trustees, managers, or officers thereof; and shall be used only for mortuary benefits, without assessment, or applied in payment of future assessments, or otherwise used for the promotion of the object or objects for which said funds are specially provided and set apart, and such use shall not be deemed or construed to mean a profit received by members within the meaning of the statutes of this territory.

Surplus funds, how invested.

SEC. 9. All corporations, associations, or societies, organized under the provisions of this act, or that have heretofore been organized within this territory, under any charter, compact, or agreement, or statute of this territory, for the purpose of furnishing life, accident, or permanent disability indemnity or mortuary benefit on the assessment plan, in accordance with the provisions of the first section of this act, shall not be deemed insurance companies, nor subject to the laws of this territory relating thereto, but shall comply with, and conform to, all the requirements and provisions of this act; and shall by their president and secretary, or like officers, make to the territorial auditor annually, on or before the first day of March, in each and every year, a statement, under oath, for the year ending on the thirty-first day of December next preceding, upon blanks furnished by said auditor, which blanks shall be such as will show its financial condition, assets, liabilities, total amount of indemnity in force, number of members, number whose membership has terminated during the year, and cause thereof, total receipts and sources thereof, total expenditures and objects thereof, and the average amount paid on each certificate, and shall pay into the treasury of the territory,

Not subject to general laws governing insurance companies.

Statement to be made annually.

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upon filing said certificate, a fee of twenty-five dollars, and the said auditor shall publish said statement in his annual report: *Provided*, that nothing herein contained shall be held to apply to any organization of a purely social, religious, or benevolent character, where no commissions are paid, and no salaried officers or agents employed; nor to any local association or society organized under, or subject to, the control of a grand or supreme body; nor to any secret organization having subordinate lodges or councils which has been organized under the laws of this or any other territory, and which is now permitted to do business in this territory.

SEC. 10. The territorial auditor shall have authority to appoint an expert to verify the statements aforesaid, by examination of the books and papers of the corporation, and make such other examination as he may deem necessary. The expense of such examination shall be paid by the corporation, association, or society having its books examined, and shall not exceed the necessary traveling and hotel expenses of said expert, and reasonable compensation for such expert while engaged in such examination.

Territorial auditor to make examination of financial condition.

SEC. 11. The territorial auditor shall, at the request of any corporation, association, or society, doing business under the provisions of this act in this territory on the assessment plan, make an examination of such corporation, and shall furnish a certificate of the results of such examination, showing all its assets, and how invested, and such other particulars as may be deemed necessary to show the character and condition of said corporation, and the necessary expense of the said examination shall be paid by the corporation requesting the same.

Penalty for non-compliance with the requirements of this act.

SEC. 12. Whenever any corporation, association, or society, organized or having transacted business under the provisions of this act, shall neglect or refuse to make its annual statement as required by this act, or whenever the said auditor shall find, upon examination, as provided in section 10 of this act, that any willfully false or untrue statements in any material respect have been made, or that the business of the corporation, association, or society has been conducted fraudulently, or in willful violation of any of the provisions of this act, or that the corporation has transacted business different from that

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authorized by its certificate of incorporation, he shall communicate the fact to the district attorney, whose duty it shall be to apply to the district court where its principal office is located, for an order requiring the officers or directors, trustees or managers of such corporation to show cause why they should not be removed from office, or its business closed; and the court shall thereupon hear the allegations and proofs of the respective parties, and if it shall appear to the satisfaction of the said court that any one or more of them have been guilty of fraud or any material irregularity or violation of the law to the injury of the said corporation, association, or society, or of non-compliance with any of the provisions of this act, the court shall decree a removal from office of the guilty party or parties, which decree shall forever debar him or them from holding a similar office, and shall substitute a suitable person or persons to serve until the regular annual meeting, or until a successor or successors are regularly chosen or elected; or, if it shall appear to the said court that the interests of its members or the general public so require, the court may decree a dissolution of such corporation, association, or society, and a distribution of its effects.

SEC. 13. Any officer, director, trustee, or manager, or any other person having charge of the books and papers of any corporation conducting business under the provisions of this act, who shall willfully neglect or refuse to comply with the provisions of this act, shall be subject to a fine of not less than ten dollars nor more than one hundred dollars for such offense. Any person who shall act as agent, or be instrumental in securing or inducing any person to become a member of any assessment plan corporation, association, or society, that has not complied with the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than fifty dollars for each offense, and shall be imprisoned in the county jail located in the county where conviction is secured until such fine is paid, not exceeding thirty days for each conviction.

When first statement shall be made.

SEC. 14. The first statement to the territorial auditor, as required under the provisions of section 9 of this act, shall be made on or before the first day of July, A. D. 1885, and shall embrace all the facts required by the provisions of this act, from the date of organization, up to

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the thirty-first of December, 1884. Any corporation, association, or society, failing or refusing to make the statement required by this section within the time specified, shall be proceeded against in the same manner, and shall be subject to the same penalty, as provided in section 12 of this act.

When license shall be issued to do business.

SEC. 15. Any corporation, association, or society, organized under the laws of any other territory or government, for the purpose of furnishing life, accident, or permanent disability indemnity upon the assessment plan, where benefits are paid to such as have an insurable interest only, complying with the provisions of this act, so far as applicable, and showing that it has deposited with the proper authority or department of the territory or state government under which it is incorporated, not less than fifty thousand ($50,000) dollars as a guarantee fund for the security of its members, shall be licensed by the territorial auditor upon the payment into the territorial treasury of a fee of $100, to do business in this territory, provided such corporation, association, or society shall first deposit with the said auditor a certified copy of its charter or articles of incorporation, a copy of its statement of business for the preceding year, sworn to by its president and secretary, or like officers, showing a detailed account of expenses and income, the amount of life indemnity in force, its assets and liabilities, in detail, number of members, and a certificate, sworn to by the president and secretary, or like officers, setting forth that an ordinary assessment upon its members is sufficient to pay its maximum certificate of membership to the full limit named therein; a copy of its policy or certificate of membership, application and by-laws, which must show that death losses are in the main provided for by assessments upon the surviving members; and it shall legally designate a person or agent residing in the territory to receive service of process for said corporation.

Fee to be paid on filing annual statement.

SEC. 16. Such corporations, associations, or societies, shall pay into the treasury of the territory, upon filing each annual statement, a fee of $25, and in the event of its failure to make such statement on or before the first day of March of each year, the auditor shall revoke its license, and thereafter, or until such annual statement is made, it shall be deemed to be doing business unlawfully

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in this territory. When the territorial auditor shall have reason to doubt the solvency of any foreign corporation, association, or society, acting under the provisions of this act, and when he is not fully satisfied with the certificate of the insurance commissioner, or other like officer, of the state, territory, or government, of its organization, he may proceed to make an examination, as provided in this act for the examination of corporations organized in this territory; and should he find that it has made fraudulent or untrue statements, or that it is conducting its business in an irregular and illegal manner, or if he shall be of the opinion that any such corporation in this territory is conducting its business fraudulently, or is not in good faith carrying out its contracts with its members in this territory, he shall report the same to the attorney general, who shall thereupon commence proceedings, by writ of *quo warranto*, against such corporation or association, requiring it to show cause why its license to do business in this territory should not be revoked. And any such foreign corporation or association now doing business in this territory that shall refuse or neglect to comply with the provisions of this act within the space of ninety days after passage thereof, shall be deemed to be doing business unlawfully; and if any officer, agent, or employe of any such corporation or association shall do business in this territory, or assist in, or knowingly permit the same, unless such corporation or association has complied with the provisions of the laws of this territory applicable to the same, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $50, nor more than $1,000, or be imprisoned in the county jail not less than thirty days nor more than one year, or both, in the discretion of the court.

SEC. 17. All laws or parts of laws in conflict with this act are hereby repealed.

[The foregoing act having been presented to the governor of Montana territory on the fifth day of March, 1885, for approval, and not having been returned by him to that house of the legislative assembly in which it originated within the time prescribed by section 1842, chap. 1, title XXIII, revised statutes of the United States, has become a law without his approval.]

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BLIND PERSONS.

AN ACT to provide for the teaching of a trade to indigent blind persons.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The governor and superintendent of public instruction of the territory are hereby authorized to contract with any suitable institution in any state or territory of the United States for the instruction in a trade or handicraft of any indigent blind person, above the age of eighteen years, who is actually a resident of this territory, at an expense to the territory of not more than three hundred dollars per annum for each such person, and for a term not exceeding two years for each such person; and upon the certificate of said governor and superintendent of public instruction that such contract has been made, and that any such person is receiving such instruction in such institution, the territorial auditor shall draw his warrant on the territorial treasurer for the payment of the fees of such institution, in accordance with the terms of such contract.

The governor and superintendent of public instruction shall contract with some institution.

Limiting amount to be paid for instruction.

SEC 2. When any blind person over the age of eighteen years becomes a charge upon any county in this territory, the board of commissioners shall consider the age, ability, and character of such blind person, and if said board shall find that it is probable that such blind person can become self supporting after two years' instruction in any trade or handicraft, the said board shall so inform the governor and superintendent of public instruction, and they shall contract for the instruction of such indigent blind person, under the provisions of section 1 of this act; and it shall be the duty of the board of county commissioners of the county of which such indigent blind person is a citizen to provide for his transportation to and from the institution at which he is to be instructed.

Counties to pay for transportation.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

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BURGLARY.

AN ACT to amend chapter V of the fourth division, criminal laws of the revised statutes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That sections 69 and 70, of chapter V, of the fourth division, criminal laws of the revised statutes be amended so as to read as follows:

Burglary defined.

SEC. 69. Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, out-house, or other building, tent, steamboat, or rail-car, with intent to commit grand or petit larceny, or any felony, is guilty of burglary.

Burglary in the first degree.

SEC. 70. Every burglary committed in the night time is burglary of the first degree, and every burglary committed in the day time is burglary in the second degree.

SEC. 2. That there be added to chapter V of the fourth division, criminal laws of the revised statutes, the following sections:

How punished.

SEC. 70, *a*. Burglary of the first degree is punishable by imprisonment in the territorial prison for not less than two nor more than fifteen years. Burglary of the second degree is punishable by imprisonment in the territorial prison for not less than one year nor more than ten years.

Burglary in the second degree, how punished.

SEC. 70, *b*. The phrase "night time," as used in this chapter, means the period between sunset and sunrise.

This law not retroactive.

SEC. 3. All offenses committed under the sections amended by this act, prior to the passage hereof, shall be prosecuted and punished in the same manner and with the same effect as if the amendments provided in this act had not been made.

Approved March 10, 1885.

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BUTTER AND CHEESE—ADULTERATION.

AN ACT to prevent deception in the sale of butter and cheese.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. Every person who shall manufacture for sale, or who shall offer or expose for sale by the tub, firkin, box, or package, or any greater quantity whatever, any article or substance in semblance of butter and cheese, not the legitimate product of the dairy, and not made exclusively of milk or cream, but into which any oil, lard, intestinal or offal fat, not produced from milk or cream, enters as a component part, or into which melted butter or any oil thereof has been introduced to take the place of cream, shall distinctly and durably stamp, brand, or mark upon the side of every cheese, and also upon the top and side of every such tub, firkin, box, or package of such article or substance the words "Oleomargarine butter," or, if containing cheese, the words "Imitation cheese," only where it can be plainly seen, in Roman letters, which shall be burned in or painted thereon with permanent black paint, in a straight line, and shall not be less than one-half inch in length; and in case of retail sales of such articles or substances in parcels, the seller shall in all cases sell, or offer or expose the same for sale, from a tub, firkin, box, or package, stamped, branded, or marked as herein stated, and shall also deliver therewith to the purchaser a printed label bearing the plainly printed words "Oleomargarine butter," or, if cheese, the words "Imitation cheese," only in Roman letters, not less than one-half inch in length, which shall be printed in a straight line; and every sale of such article or substance by the tub, firkin, box, or package, or in any greater quantity, not so stamped, branded, or marked, and every such sale of such article or substance at retail, in parcels that shall not be sold from a tub, firkin, box, or package so stamped, branded, or marked, or without delivery of a label therewith, as above stated, is declared to be unlawful and void, and no action upon any contract shall be maintained in any of the courts of this territory to recover upon any contract for the sale of such article or substance not so stamped, branded, or marked.

What to be considered adulteration.

Must label such adulterated product distinctly.

Regulating retail sales.

Contracts null and void.

SEC. 2. Every person who shall sell, or offer or expose or sale, or have in his or her possession, with intent to

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sell by the tub, firkin, box or package, or in any greater quantity, any of the said articles or substance required by the first section of this act to be stamped, branded, or marked, that shall not be so stamped, branded, or marked, or in the case of retail sales in parcels, every person who shall sell, or offer or expose for sale, any of said article or substance without selling, offering or exposing for sale the same from a tub, firkin, box, or package stamped, branded, or marked as in said first section provided, or without delivery of a label, as required by section one of this act, shall for every such offense forfeit and pay a fine of one hundred dollars, to be recovered with costs, in any of the courts in this territory having cognizance thereof, in an action to be prosecuted in the name of this territory, and the one-half of such recovery shall be paid to the informer, and the residue shall be applied to the public school fund in the county where such recovery is had.

Penalty.

SEC. 3. Every person who shall sell, or offer or expose for sale, or who shall cause or procure to be sold, offered or exposed for sale, by the tub, firkin, box, or package, or in any greater quantity, any article or substance required by the first section of this act to be stamped, branded, or marked, not so stamped, branded, or marked, or in case of retail sales in parcels, every person who shall sell, or offer or expose for sale, or who shall cause or procure to be sold, offered, or exposed for sale any article or substance required by the first section of this act to be sold, offered, or exposed for sale from a tub, firkin, box, or package, stamped, branded, marked, or labeled as therein stated, contrary to the provisions of such section, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than one hundred dollars, or by imprisonment in the county jail for not less than ten nor more than thirty days, or by both such fine and imprisonment for each and every offense.

SEC. 4. All acts or parts of acts, in conflict with this act, are hereby repealed.

SEC. 5. This act shall take effect sixty days after it becomes a law.

Approved March 10, 1885.

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CATTLE—BRANDING.

AN ACT to prevent the branding of cattle during certain seasons of the year.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That it shall be unlawful for any person to brand or mark any calf or other cattle that are running at large, between the first day of August and the first day of September of each year, and between the fifteenth day of November of each year and the fifteenth day of the month of May following: *Provided*, that any owner of stock may brand, on his own premises, at any time, in the presence of two responsible citizens. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction before any court of competent jurisdiction, shall be punished by a fine not less than twenty-five dollars nor more than one hundred dollars, for each and every animal thus branded, or by imprisonment in the county jail for a term not exceeding six months, or may be punished by both such fine and imprisonment, in the discretion of the court.

When branding unlawful.

Proviso.

Penalty.

SEC. 2. The following counties shall be exempt from the provisions of this act, to-wit: Missoula, Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, and also all that part of Gallatin county lying west of the summit of the Belt or Bridger ranges of mountains.

Certain counties exempted.

SEC. 3. All acts and parts of acts, in conflict with the provisions of this act, be and the same are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved March 10, 1885.

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CHATTEL MORTGAGES.

AN ACT to amend an act entitled "an act concerning chattel mortgages," approved February 19th, 1881.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 4 of an act concerning chattel mortgages, approved February 19, 1881, be amended so as to read as follows:

Period of validity.

SEC. 4. Any mortgage of goods, chattels, or personal property, acknowledged and filed as hereinbefore provided, shall thereupon, if made in good faith, be good and valid as against the creditors of the mortgager and subsequent purchasers and mortgagees, from the time it is so filed until the maturity of the entire debt or obligation for the security of which the same was given, and for a period of thirty days thereafter, provided the entire time shall not exceed one year and thirty-three days thereafter.

SEC. 2. That section 5 of said act be amended so as to read as follows:

How mortgaged personal property may be attached.

SEC. 5. Personal property mortgaged may be taken on attachment or execution issued at the suit of a creditor of the mortgager; but before the property is so taken the officer must pay or tender to the mortgagee the amount of the mortgage debt and interest, or must deposit the amount thereof with the county treasurer of the county in which the mortgage is filed, payable to the order of the mortgagee; and when the property then taken is sold under process, the officer must apply the proceeds of the sale as follows:

Disposition of money received from sale of such personal property.

1. To the repayment of the sum paid to the mortgagee, with interest from the date of such payment; and

2. The balance, if any, in like manner as the proceeds of sales under execution are applied in other cases.

SEC. 3. This act shall be in force from and after its passage.

Approved February 27, 1885.

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CIVIL ACTIONS—PLEADINGS.

AN ACT to amend section 116, and to repeal section 300, of the first division, code of civil procedure of the revised statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 116, of the first division of the revised statutes of Montana, be amended so as to read as follows:

SEC. 116. When the plaintiff is ignorant of the name of a defendant, such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered the pleadings or proceedings may be amended accordingly. It shall be sufficient in all actions, papers, pleadings, or proceedings, to designate any party or person by the initial letter or letters, or some contraction of the Christian or first name or names, instead of stating the Christian or first name in full.

When true name is unknown any name may be substituted.

Not necessary to insert full Christian name.

SEC. 2. That section 300 of the first division of the revised statutes of Montana is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

CLERKS OF DISTRICT AND PROBATE COURTS.

AN ACT relative to bonds of clerks of courts.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The clerks of the territorial district courts, and clerks of the probate courts, are hereby required to execute official bonds, running to the people of the territory of Montana, conditioned for the faithful performance of their duties as clerks of their respective courts, and to account for all moneys of litigants and others coming into their hands as such clerks. Each clerk of the district court, before entering upon the discharge of

To give bonds.

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his duties as such, shall file with the secretary of the territory a good and sufficient bond conditioned as aforesaid, in the sum of twenty thousand dollars, with two or more sureties, to be approved by the judge of the district court of the district for which he is appointed. Clerks of the probate [courts] shall give bonds in the sum of five thousand dollars, with two or more sureties, to be approved by the judge of the probate court of the county for which they are appointed. Such bond shall be filed in the office of the county clerk of the county for which the clerk is appointed.

Clerks of district courts to file bond with secretary of the territory.

Clerk of probate court to file bond with county clerk.

Bonds may be sued upon in the name of the territory of Montana.

SEC. 2. The bond so executed by said clerks may be sued upon in the name of the territory of Montana, in any court of competent jurisdiction, to the use of any person or persons aggrieved by any breach of the same.

SEC. 3. That article 1 of chapter 8 of the fifth division of the revised statutes, and all acts and parts of acts in conflict herewith, be and the same are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 16, 1885.

CONVICTS—PENALTY.

AN ACT concerning penalties for crime.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Persons convicted of felony to be sentenced to confinement at hard labor.

SEC. 1. In all cases of conviction for felony, hereafter committed, it shall be the duty of the court sentencing any person convicted to attach to the sentence of imprisonment the provision that such imprisonment be at hard labor; and whenever any jury shall have designated in their verdict any term of imprisonment the same shall be deemed and held to mean imprisonment at hard labor.

The officer in charge of such prisoners to furnish labor.

SEC. 2. It shall be the duty of the person or officer having charge of any such prisoner in any prison, penitentiary, jail, or other place of confinement, to furnish

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labor to such prisoner, and to require of him the performance thereof, in all cases where such labor can be furnished such prisoner within the limits of such place of confinement, or as permitted by the law of the jurisdiction within which such sentence of imprisonment is being carried into effect.

Approved March 10, 1885.

CONVICTS, TERRITORIAL.

AN ACT authorizing the governor to contract for the keeping and maintenance of territorial prisoners.

Be it enacted by the Legislative Assembly of the Territory of Montana:

The governor may contract for keeping prisoners in any state or territory.

SEC. 1. That on and after the passage of this act the governor be and is hereby authorized and directed to enter into, make, and execute, in behalf of and in the name of the territory, upon such terms as he shall deem best, a contract with the proper authorities of any state or territory, for the safe keeping, clothing, medicines, medical treatment, and care and maintenance, in the penitentiary of such state, for a term not exceeding three years, of all persons sentenced for a period of two or more years to confinement in the penitentiary for offenses against the laws of the territory: *Provided*, that the amount contracted to be paid by the territory shall not exceed fifty cents per day for the safe keeping, clothing, and maintenance of each convict; and he may renew the contract on terms alike advantageous to the territory for a further period of three years, unless otherwise provided by law.

Duration of contract limited.

Compensation for keeping prisoners limited.

Prisoners sentenced to two years or over may be sentenced to confinement in the penitentiary of the state or territory with which contract is made.

SEC. 2. All persons heretofore sentenced, or that may hereafter be sentenced, to imprisonment in the penitentiary for a period of two or more years shall be confined in the penitentiary of that state or territory with which the governor may contract for the safe keeping and maintenance of the same; and there shall be added to all sentences of confinement in the penitentiary the additional penalty of hard labor.

SEC. 3. It shall be the duty of the governor to report to the territorial auditor, at such stated periods as are

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provided in the contract he may make for the keeping of said convicts, the amount due from the territory, specifying the names of the convicts, and the length of time the territory is charged for each respectively, and the territorial auditor is hereby authorized to draw his warrant on the territorial treasurer, in the name of the proper officer of the prison, for the amount found due on said report.

Governor to report the amount due.

Auditor to draw warrant for the amount found due.

SEC. 4. The governor is hereby authorized to employ some competent person or persons to take charge of such convicts as are now or may hereafter be sentenced to confinement in the penitentiary for the period of two or more years, and safely transport said convicts to the penitentiary of the state or territory that has contracted for the safe keeping and maintenance of the same; and the said person or persons shall receive for such services his actual, reasonable, and necessary expenses, and a per diem of not exceeding four dollars while necessarily employed in such duty, which amount or amounts shall be ascertained by the governor, verified by the oath of the person or persons performing such service, and to be paid out of the territorial treasury on his order and the warrant of the territorial auditor.

Governor to employ some person to convey prisoners to said penitentiaries.

Compensation of persons employed limited.

SEC. 5. After such contract has been made by the governor, he shall give notice to the judges of the district courts of the same, and after such notice all persons sentenced to imprisonment in the penitentiary for a period of two or more years shall be sentenced to be confined in the penitentiary of the state or territory that contracts with the territory for the keeping and maintenance of the same.

Governor to give notice to judges of the district courts.

SEC. 6. That the penitentiary of the state or territory that contracts for the keeping of territorial prisoners shall be taken and held in law to be the territorial penitentiary for the confinement of prisoners who are now or may hereafter be sentenced to confinement in the penitentiary for the period of two years, or more, and such prisoners shall be subject to all the rules and regulations adopted and enforced for the government of said penitentiary.

Such penitentiaries to be held to be penitentiaries of this territory.

SEC. 7. That if any contract made by the governor with any state or states or territory shall expire by limitation of the contract, or otherwise becomes inoperative,

Contract may be renewed.

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he is hereby authorized to enter into a contract with some other state or states or territory, subject to the terms and limitations of this act.

Approved March 10, 1885.

COUNTY ATTORNEYS.

AN ACT creating the office of county attorney.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the office of the county attorney be and the same is hereby created, and at the next general election to be held in the territory of Montana, and every two years thereafter, there shall be elected in each county in the territory, one county attorney who shall hold his office for the term of two years, and until his successor is elected and qualified. No person shall be eligible to the office of county attorney who is not a regularly licensed and practicing attorney-at-law in the territory of Montana. When to be elected. Who eligible.

SEC. 2. Each county attorney, before entering upon the discharge of the duties of his office, shall execute to the territory of Montana, a bond in the sum of two thousand five hundred dollars, with two or more sufficient sureties, to be approved by the county commissioners of the county for which he is elected, and filed in the office of the county recorder, and conditioned for the faithful performance of the duties of his office. Said county attorneys shall also take and subscribe the oath of office prescribed by law for other county officers. To give bond.

SEC. 3. It shall be the duty of each county attorney in his respective county to sign all bills of indictment that may be found by the grand jury, and to prosecute and defend, on behalf of the people, all public prosecutions and civil actions arising in his county, before the supreme, district, and probate courts, wherein the territory of Montana, or the county in which he is elected, is a party; he shall also, when practicable, appear on behalf of the people, and prosecute all criminal proceedings in Duties.

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the justice courts of his county. He shall, when required by any grand juror, give his opinion on any matter of law pertaining to the duties of grand jurors, and shall be the legal adviser of territorial, county, school and township officers, and shall, when requested by any of such officers, give his opinion on any matters of law pertaining to their duties, without fee or compensation, and he shall prosecute all actions and proceedings for the forfeiture of bonds, undertakings, and recognizances, wherein the county or territory is a party, or the interests of the county or territory are involved.

Compensation.

SEC. 4. The county attorneys of the counties—Custer, Deer Lodge, Gallatin, Lewis and Clark, and Silver Bow, shall each receive as compensation for his services as county attorney an annual salary of six hundred dollars; and the county attorneys of each county not enumerated, whether now or hereafter organized, shall receive an annual salary of four hundred dollars. All of such salaries shall be paid out of the general fund of the respective counties; one-fourth thereof payable quarterly.

Fees of county attorneys.

SEC. 5. In addition to the salary provided in section 4 of this act the county attorney shall receive from the county treasury of the county in which he is elected, upon the allowance of the board of county commissioners, the following fees, to-wit:

For collections made for the county or territory, on all sums of five hundred dollars or less, ten per cent thereof; on all sums over five hundred dollars, ten per cent of the first five hundred dollars, and five per cent of the excess over five hundred dollars; for each conviction in case of misdemeanor, five dollars; for each preliminary examination, five dollars; for each criminal trial conducted by him in the district court, ten dollars, except capital cases, for which he shall receive twenty-five dollars; for drawing each indictment, five dollars: *Provided*, no fee shall be allowed for drawing any indictment which may be quashed, or is from any cause held to be defective. All fees in this section hereinbefore provided shall be taxed as costs. In addition to the foregoing fees the county attorney shall receive twenty cents for each mile traveled in going to and returning from the supreme court, and shall receive twenty-five dollars for each cause tried by

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him in the supreme court. All fees in this section provided shall be paid by warrants drawn on the general fund of the county: *Provided, further,* that in no case shall the fees allowed by this section (not to include mileage) exceed in amount the sum of twelve hundred dollars in any county; and the county attorneys shall furnish to the county commissioners a statement of all fees received by him, which, together with the fees allowed by the county commissioners, shall not exceed said sum of twelve hundred dollars. And if any county commissioner or commissioners shall allow any county attorney an amount in excess of the sum of twelve hundred dollars, as hereinbefore provided, such commissioner shall be individually liable to the county for such excess, and which amount may be collected by suit against such commissioner or commissioners.

Compensation limited.

SEC. 6. Wherever in the laws of this territory the words "district attorney" may occur the same shall, after the election and qualification of county attorneys as herein provided, be taken, held, and construed to mean county attorney. And after the election and qualification of county attorneys, as in this act provided, the offices of attorney general and district attorney in this territory shall be, and the same are hereby declared after such time, abolished.

SEC. 7. The district attorneys of the several judicial districts of this territory are hereby authorized, to appoint, by and with the consent and approval of the board of county commissioners of the respective counties, a deputy district attorney for each county in his district, and who shall receive the fees and compensation provided for in section 5 of this act, subject to the provisions and limitations therein provided, but shall have no claim for salary as provided in section 4 of this act; and said deputy district attorney shall hold his office during the continuance in office of the district attorney appointing him, and may be required by the county commissioners to enter into a bond, as required of district attorneys, in such amount as the county commissioners may fix, not exceeding two thousand dollars.

Present district attorney may appoint deputies.

Deputies may be allowed the same fees as county attorneys.

Approved March 12, 1885.

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COUNTY, DISTRICT, AND PRECINCT OFFICERS.

AN ACT in relation to the presentation and auditing accounts by the county commissioners.

Be it enacted by the Legislative Assembly of the Territory of Montana:

When county commissioners may require officers to file accounts.

SEC. 1. The board of county commissioners of the respective counties may, in their discretion, require all county, precinct and district officers, having claims or demands against the county, to file said accounts, properly itemized, with the county clerk, on or before the first Monday of each month. Any officer neglecting to file his account as above provided, after receiving notice from the commissioners to file the same, shall forfeit all claim or demand against the county for any services rendered, and which should have been included or embraced in an account thus directed to be filed.

When officers shall forfeit compensation.

County commissioners may audit accounts of officers at regular or special sessions.

SEC. 2. The board of commissioners of the respective counties may, in their discretion, audit and adjust the accounts of all county, district, and precinct officers, filed in pursuance of the preceding section, at any regular or special meeting of the board after said accounts shall be filed.

SEC. 3. All acts and parts of acts, in conflict with this act, are hereby repealed.

SEC. 4. This act shall be in force from and after its passage.

Approved March 12, 1885.

COUNTY OFFICERS, JUSTICES, CONSTABLES—COMPENSATION.

AN ACT limiting the compensation of certain officers herein named.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Fees of county officers to be collected for the county.

SEC. 1. That the fees, costs, percentages, penalties, allowances, and all other perquisites, of whatever kind, which by law any probate judge, sheriff, treasurer, county clerk and recorder, clerk or deputy clerk of the district court, assessor, county superintendent of common schools, in every county in this territory, is or may hereafter be

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authorized to charge, receive, and collect for any official service rendered by him or them, shall hereafter be received and collected by the said officers respectively, to and for the sole use of the county treasuries of their respective counties, as public moneys, belonging to said counties, and not otherwise, and shall be accounted for and paid over as such in the manner hereinafter provided: *Provided, however*, that nothing in this act shall be held to apply to the compensation received by the sheriffs for board of prisoners, or the assessor for registering voters. Exceptions.

SEC. 2. That it is hereby made the duty of the several officers named in the first section of this act to report to the county commissioners of their respective counties quarterly, during each year of their official term, a certified and sworn statement in detail, of all costs, fees, percentages, penalties, allowances, and other perquisites of every kind, charged in his office, whether taxed in any cause, matter, or proceeding, or otherwise and receivable by him for any services rendered by him during the quarter next preceding the time of making such statement, showing the whole amount thereof, how much thereof has been received by him, how much thereof remains uncollected, the names of the persons from whom the same are due, and the amount due from each, and the reason why the same has not been collected: *Provided, however*, that the sheriff, probate judge, [and] clerk of the district court shall not be required to report as to the uncollected fees and costs in any suit, matter, or proceeding, which, at the time of making any such quarterly report, shall be pending and not determined by a final order or judgment; but all such uncollected fees and costs shall be reported in full in the next quarterly report, if the said suit, matter, or proceeding shall have been determined by a final order or judgment: *And provided further*, that the treasurer shall not be required to report the fees, percentages, allowances, or penalties, receivable by him for collecting taxes that are charged upon the tax duplicate, until his settlement with the county commissioners, but immediately after said settlement he shall pay the same into the county treasury. Officers to report quarterly. Exceptions.

SEC. 3. The maximum compensation which shall be allowed to any deputy or assistant employed to assist

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Compensation of under sheriffs, deputies, assistants, etc.

the officers named in section one of this act is hereby fixed and limited as follows: For the under sheriff, not to exceed the rate of fifteen hundred dollars per annum; for each deputy sheriff, or clerk of the probate court, or each deputy or assistant employed to assist the treasurer, clerk and recorder, or clerk of the district court or deputy, the compensation shall not exceed the rate of one hundred dollars per month: *Provided*, the whole number of assistants or deputies allowed the county clerk and recorder shall not exceed two, nor shall there be more than one clerk or assistant of the probate court or judge, nor more than one assistant for the treasurer nor more than one deputy or assistant for the clerk of the district court in addition to the deputy now provided by law, in each county. The assessor and treasurer shall not employ any deputy or assistant at the cost of the county, but, if any be employed, the assessor and treasurer shall pay therefor personally. The number of deputy clerks or assistants, if any, and the question as to whether any under sheriff shall be employed, under the provisions of this section, and the compensation of such persons when so employed, shall be determined by the board of county commissioners, and subject to all of the limitations herein prescribed. The salaries herein provided for, or so much thereof as may be allowed, shall be paid by warrants drawn on the contingent funds of the respective counties; one-fourth thereof payable quarterly.

Number of deputies and assistants limited.

County commissioners to determine the number of assistants or deputies to be employed.

Officers to keep an accurate account of money received.

SEC. 4. That each of said officers shall keep full and regular accounts, subject at all times to the examination of any officer or citizen of the county, of all sums collected by him on account of official fees, costs, penalties, percentages, allowances, and other perquisites of whatever kind, and said books of account shall be a part of the records of their respective offices, and belong to the county, and shall be transmitted to their successors in office.

SEC. 5. That the said officers named in the first section of this act shall each be allowed to receive, as annual compensation for their services, as officers of their respective counties, as follows, to-wit:

BEAVERHEAD COUNTY.

Treasurer, ... one thousand four hundred dollars,
Sheriff, ... one thousand eight hundred dollars,

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Assessor, ... one thousand dollars,
Clerk and Recorder, one thousand eight hundred dollars,
Deputy Clerk of District Court, . . five hundred dollars,
Probate Judge, ... one thousand dollars,
Superintendent of public schools, . five hundred dollars,

CHOTEAU COUNTY.

Treasurer, ... two thousand five hundred dollars,
Sheriff, ... three thousand dollars,
Assessor, ... two thousand dollars,
Clerk and Recorder, . two thousand five hundred dollars,
Deputy Clerk of District Court, ... one thousand two hundred dollars,
Probate Judge, . . . one thousand five hundred dollars,
Superintendent of public schools, . one thousand dollars,

CUSTER COUNTY.

Treasurer, ... two thousand five hundred dollars,
Sheriff, ... three thousand dollars,
Assessor, . one thousand seven hundred and fifty dollars,
Clerk and Recorder, ... two thousand dollars,
Deputy Clerk of District Court, ... one thousand five hundred dollars,
Probate Judge, . . . one thousand five hundred dollars,
Superintendent of schools, seven hundred and fifty dollars,

DAWSON COUNTY.

Treasurer, ... two thousand dollars,
Sheriff, ... two thousand five hundred dollars,
Assessor, ... one thousand five hundred dollars,
Clerk and Recorder, ... two thousand dollars,
Deputy Clerk of District Court, . . one thousand dollars,
Probate Judge, ... one thousand dollars,
Superintendent of schools, ... six hundred dollars,

DEER LODGE COUNTY.

Treasurer, ... two thousand five hundred dollars,
Sheriff, ... three thousand dollars,
Assessor, ... two thousand five hundred dollars,
Clerk and Recorder, ... two thousand dollars,
Clerk of District Court, ... two thousand dollars,

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Probate Judge, ... two thousand dollars,
Superintendent of schools, ... one thousand dollars,

GALLATIN COUNTY.

Treasurer, ... two thousand five hundred dollars,
Sheriff, ... two thousand five hundred dollars,
Assessor, ... two thousand five hundred dollars,
Clerk and Recorder, . two thousand five hundred dollars,
Clerk of District Court, one thousand two hundred dollars,
Probate Judge, . . one thousand eight hundred dollars,
Superintendent of schools, ... one thousand dollars,

JEFFERSON COUNTY.

Treasurer, ... one thousand five hundred dollars,
Sheriff, ... two thousand dollars,
Assessor, ... one thousand five hundred dollars,
Clerk and Recorder, . one thousand five hundred dollars,
Deputy Clerk of District Court, . . six hundred dollars,
Probate Judge, . . . one thousand two hundred dollars,
Superintendent of schools, seven hundred and fifty dollars,

LEWIS AND CLARKE COUNTY.

Treasurer, ... two thousand five hundred dollars,
Sheriff, ... three thousand dollars,
Assessor, ... two thousand five hundred dollars,
Clerk and Recorder, ... two thousand dollars,
Clerk of District Court, ... two thousand dollars,
Probate Judge, ... two thousand dollars,
Superintendent of schools, . . . one thousand dollars,

MADISON COUNTY.

Treasurer, ... two thousand two hundred dollars,
Sheriff, ... two thousand dollars,
Assessor, ... one thousand five hundred dollars,
Clerk and Recorder, ... two thousand dollars,
Clerk of District Court, one thousand five hundred dollars,
Probate Judge, . . . one thousand two hundred dollars,
Superintendent of schools, ... one thousand dollars,

MEAGHER COUNTY.

Treasurer, ... two thousand dollars,
Sheriff, ... two thousand dollars,

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Assessor, ... one thousand five hundred dollars,
Clerk and Recorder, ... two thousand dollars,
Deputy Clerk of District Court, . . one thousand dollars,
Probate Judge, ... one thousand dollars,
Superintendent of schools, . . . eight hundred dollars,

MISSOULA COUNTY.

Treasurer, ... two thousand dollars,
Sheriff, ... two thousand two hundred dollars,
Assessor, ... one thousand five hundred dollars,
Clerk and Recorder, one thousand eight hundred dollars,
Deputy Clerk of District Court, . nine hundred dollars,
Probate Judge, ... twelve hundred dollars,
Superintendent of schools, ... one thousand dollars,

SILVER BOW COUNTY.

Treasurer, ... two thousand five hundred dollars,
Sheriff, ... three thousand dollars,
Assessor, ... two thousand five hundred dollars,
Clerk and Recorder, two thousand five hundred dollars,
Deputy Clerk of District Court, . two thousand dollars,
Probate Judge, ... two thousand dollars,
Superintendent of schools, . . . one thousand dollars,

YELLOWSTONE COUNTY.

Treasurer, ... two thousand five hundred dollars,
Sheriff, . two thousand seven hundred and fifty dollars,
Assessor, ... two thousand dollars,
Clerk and Recorder, two thousand five hundred dollars,
Deputy Clerk of District Court, twelve hundred dollars,
Probate Judge, . . . one thousand five hundred dollars,
Superintendent of schools, ... one thousand dollars,

—which sums shall be paid to them quarterly, out of the contingent fund in their respective county treasuries, upon the warrant of the county commissioners, it being the true intent and meaning of this act to limit the maximum annual compensation, from every source, of the officers named in the first section of this act to the sums named in this section. Salaries to be paid quarterly.

SEC. 6. That each of said officers named in the first section of this act shall, at the end of each quarter, pay

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To pay over all receipts quarterly.

into their respective county treasuries, for the use of their counties, all fees, costs, penalties, percentages, allowances, and perquisites, of every sort collected by them during said quarter, to the credit of the contingent fund of the county.

It shall be the duty of the sheriff, at the expiration of his official term of office, or within ten days thereafter, to pay over to his successor in office, all moneys that may be in his hands under any execution, order of sale, or other legal process, of whatever kind, or the proceeds arising from any sale of real or personal property by him previously made, and where he holds the same awaiting the order of the court for confirmation of sale or distribution of proceeds.

Penalty for neglect so to pay over.

SEC. 7. In case any officer named in this act shall fail to pay over into the county treasury any money found due from him upon his settlement with the county commissioners under this act for the period of thirty days after the same shall have been ascertained and found by them to be due, and notice given him; or, if any of said officers shall, with intent to violate this act, fail to furnish the statements and reports herein required, at the time and in the manner herein specified; or, if the sheriff shall fail to pay over moneys to his successor in office, as provided in section 6 of this act; or, if any of said officers shall willfully make any such report false in any material matter, knowing the same to be so; or, if any of said officers shall willfully violate any of the provisions of this act,—he shall, upon conviction upon indictment in the district court of the proper county, be adjudged guilty of misconduct in office, and be immediately removed therefrom, and, in addition, forfeit all compensation to which he would otherwise be entitled, and be condemned to pay a fine for the use of the county of not less than five hundred dollars nor more than two thousand dollars, for the payment of which forfeiture and fine, as well as any amount otherwise due from him in his official capacity, his sureties shall also be liable upon their bond, to be recovered in a civil action, in the name of the territory of Montana, for the use of the county in which he was an officer.

SEC. 8. The official bond required by law, and hereafter taken from any officer named in this act, shall be

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deemed and held to make the parties to the same liable for any violation on the part of the officer for whom they are sureties of any of the provisions thereof, and for the faithful performance of all the duties hereby required.

Bondsmen to be liable for neglect of duty by officers.

SEC. 9. Before the county commissioners shall issue a warrant upon the county treasurer to any clerk, deputy, or other assistant, for his compensation or salary, as prescribed in the third section of this act, said clerk, deputy, or assistant, shall sign a receipt, and verify the same by oath or affirmation attached, which receipt and oath or affirmation shall be in the following form:

Form of receipt and certificate.

No. . . .

Received of the (here recite the county), by (here state name of party receiving salary or compensation) . . . . . dollars in full for services as (here insert services) for . . . . . ending . . . . A. D. 18 . .

(Name of party receiving same.)

I hereby swear (or affirm) that I have rendered the services as herein stated, and that I have received the full sum set forth in the above receipt for my own use and benefit, and that I have not paid, deposited, or assigned, nor contracted to pay, deposit, or assign, any part of such compensation for the use of any other person, nor in any way, directly or indirectly, paid or given, nor contracted to pay or give, any reward or compensation for any office, or the emoluments thereof.

. . . . . (Name of party.)

Sworn to and subscribed before me, this . . . day of . . . 18 . .

. . . . . (Signature of officer.)

And said receipt and oath or affirmation shall be preserved and filed by the county clerk.

SEC. 10. Every sheriff, deputy, or other person, appointed by the court to serve or execute any writ or other process issued therefrom, shall serve or execute the same, and shall receive therefor his or their actual, reasonable, and necessary expenses while in the performance of such duty, and such actual expenses shall be ascertained by the county commissioners, and paid out

Reasonable expenses to be allowed officers.

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of the treasury of the proper county; but before the same shall be paid, the sheriff, deputy, or other person serving or executing the writ or other process, shall make out a sworn statement in detail of the distance traveled, the name of the person or persons served with such writ or other process, and the amount of money actually paid as expenses, with vouchers for railroad fare and other transportation, and if the county commissioners, after an examination of the same, shall find that the expenses are reasonable, and the amount stated was actually paid, they may order the same, or any part thereof, to be paid out of the contingent fund of their respective counties.

Dates at which this act takes effect as to the several county officers.

SEC. 11. This act shall take effect and be in force from and after the third Monday in December, 1885, except as to the following officers: It shall take effect as to county treasurers on and after the first Monday of March, 1886; and as to the county assessors, justices of the peace, and constables, it shall take effect from and after its passage. All costs, fees, percentages, allowances, and penalties, and other perquisites, of whatever kind, belonging to the counties, under the provisions of this act, remaining unpaid at the end of the official term of office of any officer named in this act, shall in nowise belong to or be the property of any such officer, but shall be collected by his successor in office, and paid into the treasury of the proper county.

Compensation of justices of the peace.

SEC. 12. Justices of the peace shall be allowed a fee of one dollar at the commencement of any suit, civil or criminal, and three dollars additional for trying any case, and not more than six dollars for trying any case, and this shall be in full for all services required by law in the progress of any suit, including final judgment. For all transcripts, on appeal or otherwise, twenty cents per folio of one hundred words or fraction thereof.

Compensation of constables.

Mileage.

SEC. 13. The fees of constables shall be the same as those allowed sheriffs for similar services, but they shall in no case charge or be allowed any fee for attendance on the court for the entry of any warrant or subpœna, separate or apart from the fee allowed for a return, nor for the discharge of any prisoner, nor shall he be allowed any mileage for any distance traveled less than one mile.

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SEC. 14. County officers, jurors, witnesses, and all other parties that may be entitled to mileage from the several counties in the territory, shall be entitled to collect mileage at the rate of fifteen cents per mile for the distance actually traveled, and no more.

Mileage allowed to officers, jurors and witnesses.

SEC. 15. All acts and parts of acts, in conflict with the provisions of this act, be and the same are hereby repealed.

Approved March 12, 1885.

COUNTY POOR—MEDICAL ATTENDANCE.

AN ACT to amend section 961 of the fifth division of the revised statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 961 of the fifth division of the revised statutes of Montana be amended to read as follows:

SEC. 961. And the boards of county commissioners of the several counties shall annually, at their December meeting, make a contract with some resident practicing physician to furnish medical attendance to the said sick, poor, and infirm of their respective counties, and to the inmates of the county jail who may require medical treatment for the succeeding year, and shall also make provision for furnishing such medicines as may be required for such poor, sick, and infirm, and the inmates of the county jail who may require medicines.

County commissioners to contract for medical treatment of the county poor and county prisoners.

Approved March 10, 1885.

COUNTY SURVEYORS.

AN ACT to amend section 447, of the fifth division of the general laws of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 447, of the fifth division of the general laws of Montana, be and the same is hereby amended to read as follows:

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To execute survey on request of persons and county commissioners.

SEC. 447. It shall be the duty of the county surveyor, by himself or one of his deputies, to execute any survey which may be required by any court, upon the application of any individual or corporation, and shall execute any survey required by the board of county commissioners. He shall be paid for his services seven dollars per day while making the survey, the amount, in the first instance, to be paid by the person or corporation for whose benefit the survey is made, and in the other, by the county commissioners, by order on the county treasurer, against the proper fund.

Compensation, by whom paid.

SEC. 2. This act shall be in force and take effect from and after its passage.

Approved March 12, 1885.

COUNTY TREASURERS.

AN ACT to amend section 89, article 2, fifth division, revised statutes of the territory of Montana, and for other purposes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 89 of article 2, fifth division, revised statutes of the territory of Montana, be amended so as to read as follows:

SEC. 89. That each county treasurer shall, at the expiration of each and every quarter, make a settlement with the board of county commissioners of their respective counties, and shall make a quarterly report of all moneys collected for county and territorial purposes, and shall forthwith, before the board adjourns, transmit such report, together with the amount due the territory, to the territorial treasurer.

To settle with county commissioners quarterly.

What third quarter shall be held to include.

SEC. 2. That the third quarter of each fiscal year shall be held to include the first day of December, for the collection and disbursement of the revenues.

Penalty for neglect to comply.

SEC. 3. That if any county treasurer shall neglect or refuse to comply with the provisions of this act, he shall be guilty of a misdemeanor, and, on conviction, shall be fined in any sum not exceeding two hundred dollars for

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each and every day he may neglect or refuse to transmit to the territorial treasurer the amount found due from his county to the territory.

Approved February 27, 1885.

CORONERS—JURORS—WITNESSES.

AN ACT to amend section 420 of the fifth division of the revised statutes of Montana territory, of 1879.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 420 of the fifth division of the revised statutes of the territory of Montana, 1879, be and the same is hereby amended so as to read as follows:

SEC. 420. The coroner may issue subpœnas within his county for witnesses, returnable forthwith, or at such time and place as he shall therein direct; and jurors and witnesses shall be entitled to receive the same fees and mileage as are now allowed by law before a justice of the peace; and the coroner shall have the same authority to enforce the attendance of jurors and witnesses, and to punish them for contempt in disobeying process, as a justice of the peace has, when his process issues in behalf of the territory.

When coroner may issue subpœnas.

Compensation of jurors and witnesses.

Governor may punish for contempt.

Approved February 20, 1885.

CRIMINAL ACTIONS—PLEADING.

AN ACT to amend section 211 of the third division of the revised statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the second subdivision of section 211 of chapter 9 of the third subdivision of the revised statutes of Montana be and the same is hereby amended to read as follows:

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Plea.

Second. The acts constituting the offense are stated in an indefinite, ambiguous, and uncertain manner.

Approved March 10, 1885.

CROW INDIAN RESERVATION.

AN ACT concerning that portion of the Crow Indian reservation adjacent to Yellowstone county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. All that portion of the Crow Indian reservation lying between the Wyoming line and the Yellowstone river, and west of the Big Horn river, in Montana territory, that may hereafter be segregated and thrown open for settlement, shall form a part of Yellowstone county.

SEC. 2. That all that portion of the Crow reserve included within the boundaries described in section 1 of this act be and the same is hereby attached to the county of Yellowstone for judicial purposes.

SEC. 3. This act to be in full force and effect from and after its passage.

Approved March 5, 1885.

DEADLY WEAPONS.

AN ACT to amend section 62 of chapter IV of the fourth division of the revised statutes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 62 of chapter IV of the fourth division of the revised statutes be amended to read as follows:

Threateningly drawing deadly weapons prohibited.

SEC. 62. Every person in this territory having, carrying, or procuring from another person, any dirk, dirk-knife, sword, sword-cane, pistol, gun, or other deadly weapon, who shall, in the presence of one or more persons, draw or exhibit any of said deadly weapons in a

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rude or angry or threatening manner, not in necessary self defense, or who shall in any manner unlawfully use the same in any fight or quarrel, the person or persons so offending, upon conviction thereof in any criminal court in any county in this territory, shall be fined in any sum not less than ten dollars nor more than one hundred dollars, or imprisoned in the county jail not less than one month nor more than three months, at the discretion of the court, or by both such fine and imprisonment, together with the costs of prosecution, which said costs shall in all cases be computed and collected in the same manner as costs in civil cases; and all fines and forfeitures arising under the provisions of this act shall be paid into the county treasury for school purposes: *Provided*, that no sheriff, deputy sheriff, constable, marshal, or other peace officer, shall be held to answer, under the provisions of this act, for drawing or exhibiting any of the weapons hereinbefore mentioned while in the lawful discharge of his or their duties.

Penalty.

Costs, how computed.

Fines and forfeitures to be paid into county treasury.

Peace officers exempt in discharge of their duties.

SEC. 2. All acts and parts of acts, in conflict with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

DEAF MUTE AND BLIND CHILDREN.

AN ACT to amend sections 504 and 506 of the fifth division, revised statutes of Montana territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. Sections 504 and 506 of chapter 19 of the fifth division of the revised statutes of the territory of Montana are hereby amended as follows:

Governor and superintendent of public instruction may contract for care of deaf mute and blind children.

SEC. 504. The governor and superintendent of public instruction of this territory are hereby authorized to contract with any suitable institution in any state, territory, or federal district in the United States, for the education

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of any deaf mute or blind child, between the ages of eight and eighteen years, who is actually a resident of this territory, at an expense to the territory of not more than three hundred dollars per annum for each such child, and for a term not exceeding six years for each such child, including the time that any such child has had the benefit of the law heretofore in force; and upon the certificate of the governor and superintendent of public instruction that such contract has been made, and that any such child is receiving instruction in such institution, the territorial auditor shall draw his warrant on the territorial treasurer for the payment of the fees of said institution, in accordance with [the] terms of the contract made.

Amount to be paid limited.

Certificate required.

SEC. 506. Whenever it is brought to the attention of the governor and the superintendent of public instruction of this territory that there is a deaf mute or blind child, between the ages of eight and eighteen years, whose parents or guardian are financially unable to defray the traveling expenses attendant upon going to or returning from said institution of learning, then it shall be the duty of the governor and superintendent of public instruction to procure suitable transportation for said child, and such escort as may be necessary and required for the safe transportation to and from said institution, and certify the same to the auditor, who shall draw his warrant on [the] territorial treasurer for the amount thereof.

Transportation to be provided.

Escort to be furnished if necessary.

[The foregoing act, having been presented to the governor of Montana territory on the twenty-sixth day of February, 1885, for approval, and not having been returned by him to that house of the legislative assembly in which it originated within the time prescribed by section 1842, chapter I, title XXIII, revised statutes of the United States, has become a law without his approval.]

FENCES.

AN ACT concerning fences.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The following shall be deemed legal and sufficient fences, provided they shall not be less than four and one-half feet in height:

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First. All fences constructed of not less than four strong poles or rails, the lowest not more than one foot and a half from the ground, firmly fastened to well supported leaning posts, not more than twenty (20) feet apart. Legal fences defined.

Second. All fences constructed of at least one strong pole, rail, or board, and three barbed wires, the lowest not more than one foot and a half from the ground, all firmly fastened to well supported leaning posts, not more than twenty feet apart.

Third. All fences constructed of at least one strong pole, rail, or board, and three barbed wires, the lowest not more than one foot and a half from the ground, all well secured to posts firmly set in the ground, at a distance not to exceed twenty feet apart.

Fourth. All fences constructed of at least four barbed wires, the lowest of which shall not be more than one foot and a half from the ground, well secured to posts firmly set in the ground, at a distance not exceeding thirty feet apart, with not less than seven pickets, at least five feet in length, interwoven in and fastened to said wires between each two of said posts, in such manner that there shall be no space to exceed four feet in width.

Fifth. All worm fences and stone walls.

Sixth. All rivers, hedges, mountain ridges, and bluffs, or other thing which it may be impossible for stock to pass: *Provided*, that none of the hereinbefore described fences shall be deemed legal and sufficient for stack yards, or places where grain, hay, or straw is kept, but that such stack yards and places shall be fenced by a fence six feet high, constructed of not less than six poles or boards, fastened securely to posts set firmly in the ground, and not exceeding fourteen feet apart. Legal fence for stack yards defined.

SEC. 2. Any person or persons who shall construct or maintain a barbed wire fence without a strong pole, rail, or board at or near the top, except as provided in subdivision four (4), section one (1), of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not to exceed one Barbed wire fences to be surmounted by a strong pole, rail, or board.

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Penalty. hundred dollars, or by imprisonment in the county jail for a term not exceeding three months, or by both such fine and imprisonment, at the discretion of the court, together with the costs of prosecution.

Repealing clause. SEC. 3. Section 1 of an act entitled "An act concerning fences," approved February 23, 1881, together with all acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after the first day of June, 1885.

Approved March 10, 1885.

FERGUS, COUNTY OF.

AN ACT to create the county of Fergus and for the election of officers thereof.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That all that portion of Meagher county lying and situate within the following boundaries, to-wit: Beginning at the north-east corner of said Meagher
Boundaries. county, thence west, on the north line of said county to Arrow creek; thence up said Arrow creek to the intersection of what is known as Surprise creek; thence up said Surprise creek to the center of the divide between the waters of Belt and Judith creeks; thence in a south and south-easterly direction, on the center of the divide between the waters of the Belt, Smith, Musselshell, and Judith rivers, to the most easterly point of the Belt mountains, at the Judith gap; thence due east, to the nearest branch of Careless creek; thence down the middle of Careless creek to the Musselshell river; thence down the middle of the Musselshell to the place of beginning, be, and the same is hereby, erected into a new county, to be known as and called Fergus county. That the town of Lewistown, within the boundaries mentioned,
County seat. shall be the county seat of said county. All laws of a general nature, applicable to the several counties of this territory, and the officers thereof, are hereby made applicable to the county of Fergus and the officers who may

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hereafter be elected or appointed therein, except as otherwise provided in this act.

SEC. 2. That the indebtedness of Meagher county, as the same shall exist on the first day of December, A. D. 1886, shall be apportioned between said county and Fergus county, by first deducting from said indebtedness all moneys on hand in the treasury of said county of Meagher, and all moneys belonging to said county in the possession of or under the control of the county treasurer; also deducting the cost of erecting and furnishing the court house and county jail, and the valuation of all real estate owned by said county, as shown by the books of the county commissioners; the remainder of the indebtedness shall be divided between the said counties of Meagher and Fergus in proportion as the taxable property of that portion of the former embraced within the above described boundaries bears to the entire taxable property of the present county of Meagher, taking as a standard therefor the assessment of the year 1886: *Provided*, that the treasurer of Meagher county shall, at the time of the adjustment as above provided, make out and transfer to the county commissioners of Fergus county lists of all delinquent tax-payers and amount of uncollected taxes: *Provided further*, that no delinquent taxes due the county be considered in the adjustment of the debt as hereinbefore provided, but it shall be the duty of the treasurer of Meagher county to collect such delinquent taxes, and turn over to the treasurer of Fergus county their pro rata share of such taxes as he may be able to collect within thirty days after making such collection: *And it is further provided*, should there be a surplus of funds in the hands of the treasurer of Meagher county after the adjustment as hereinbefore provided, said surplus shall be divided between the counties of Meagher and Fergus in the same manner as herein provided for dividing indebtedness.

Adjustment of assets and liabilities.

Delinquent taxes.

Surplus of funds to be divided in a certain event.

SEC. 3. The county commissioners of Meagher and Fergus counties shall meet at the court house at White Sulphur Springs on the first day of December, 1886, to adjust the indebtedness between said counties upon the basis named in section 2 of this act. When adjusted, if the county of Fergus shall be liable for any part thereof, it is hereby made the duty of the county commissioners of said last named county to cause to be issued to the

County commissioners to meet and adjust liabilities of the counties.

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County warrants to be issued, and how paid.

county commissioners of Meagher county a warrant or warrants therefor, which in the aggregate shall equal the amount of said indebtedness for which the county of Fergus shall, under the adjustment mentioned, be liable; and the warrant or warrants, if not paid on presentation to the treasurer of Fergus county, shall be by said treasurer indorsed "Not paid for want of funds in the treasury," and shall thereafter bear like interest as other county warrants.

Election of officers, when and how.

In case of a tie, how decided.

SEC. 4. At the general election on the first Tuesday after the first Monday in November, A. D. 1886, the following officers shall be elected for the county of Fergus by the qualified voters of said Fergus county, to-wit: One sheriff, one probate judge, one county clerk and recorder, one county assessor, one county treasurer, one county surveyor, one county coroner, one county superintendent of schools, one public administrator, and three county commissioners. The persons severally elected to such offices, except county commissioners, shall hold office until the next general election in 1888, and until their successors are elected and qualified. The two persons receiving the highest number of votes for county commissioners shall hold the office until the third Monday in December, 1890; the person receiving the next highest vote for county commissioner shall hold the office until the general election in 1888. Said several commissioners shall continue in office until their several successors are elected and qualified. If two or more persons voted for as commissioners at said election receive an equal number of votes, the terms of office of the commissioners between whom such tie exists shall be determined by lot.

Division of the county into townships and road districts.

Appointment of justices of the peace, constables and road supervisors.

SEC. 5. That at their first meeting the commissioners of said Fergus county are empowered to subdivide said county into municipal townships, and establish road districts; and they are hereby authorized to appoint two justices of the peace and two constables for each municipal township, and one road supervisor for each road district, who shall hold their respective offices until the general election in 1888, and until their successors are elected and qualified.

SEC. 6. That, in addition to the duties required under the general law regulating the manner of conducting

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elections, the commissioners of Meagher county shall, for at least one month prior to the time of holding said election, give notice of the same in some newspaper published within the limits of Fergus county. Said notice shall state the time of holding said election, the different voting places, and the officers for which shall or may be cast, and if more precincts are necessary to accommodate the citizens of said county, the said commissioners are empowered to establish the same.

Duties of county commissioners of Meagher county.

SEC. 7. Upon receiving a certificate of election from the commissioners mentioned, the persons so elected, on receiving said certificates, shall, without delay, qualify in the manner prescribed by law and enter on the discharge of the duties of the several offices to which they may be respectively elected; but nothing herein shall be construed as depriving any candidate voted for at said election from contesting the rights of office in the method prescribed by law.

County officers.

SEC. 8. The county of Fergus shall have full power and authority to contract for transcribing such part of the public records of Meagher county as they may deem useful and necessary to the county of Fergus and its inhabitants, and for this purpose shall have suitable access to the records of Meagher county. Said records, when completed, shall be carefully compared with the originals by the county clerk of Meagher county, and, if correct, he shall certify to their correctness under his official seal, and thereafter the copies of said records, so transcribed and certified to, shall be admitted and received in evidence in all courts of law in this territory, and shall be in all other respects entitled to like faith and credit as said original records. The county clerk of Meagher county shall receive for his services in comparing and certifying the correctness of the copy of said records five dollars per diem while actually engaged in said labor, which amount shall be paid by the county of Fergus, on the completion thereof, by warrants on the general fund.

County records of Meagher county, how transcribed and certified.

County clerk of Meagher county, compensation for certain services.

SEC. 9. All township and precinct officers, road supervisors, officers of school districts, and other officers of every kind within the county of Fergus, whose election or appointment is not herein provided for, shall or may

Tenure of office of certain officers.

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continue to hold [the] offices, and exercise the duties pertaining thereto, until the expiration of the term for which said officers were respectively elected or appointed.

District courts and deputy clerk.

Whenever district courts are appointed for said county the clerk or deputy, as the case may be, shall, from the time he enters upon his duties, be paid for his public services to be rendered said county and the officers thereof, an annual salary of three hundred dollars, payable in quarterly payments, by warrants drawn of the contingent fund of said county, and, in addition to said salary, be entitled to the fees prescribed in "An act to provide compensation for clerks of the district court," approved July 22, 1879. The county clerk and recorder of said county shall receive for his services as defined in section 1 of "An act in relation to fees of county clerks," approved July 22, 1879, a salary at the rate of six hundred dollars per annum, payable quarterly by warrants drawn on the general fund of said county, and payable as other warrants are paid. Said officer shall also be entitled to the fees prescribed by law for recording deeds and other instruments, and for all other services rendered by him. The fees and emoluments of all officers of said county shall be as prescribed by law, when not otherwise provided for in this act.

Compensation of deputy clerk of the district court.

County clerk, compensation of.

SEC. 10. The county of Fergus, and all persons in its name, are hereby prohibited from contracting any indebtedness whereby said county shall be bound in any sum which shall, at the time of contracting the same, exceed two per cent. of the assessed value of the taxable property of said county, taking the last previous assessment thereof as the standard of valuation, and no cause of action shall [lie] against said county for any indebtedness contracted in its name above the limitation named, however the same may be evidenced; but nothing herein contained shall deprive the holder of any indebtedness contracted in the name of or on the behalf of said county from the right of action against the person or persons who actually contracted the same, or who received a consideration therefor.

Limitation of indebtedness of the county of Fergus.

SEC. 11. This act shall take effect from and after the first day of December, A. D. 1886; but that portion of Fergus county lying in Meagher county shall remain united to said county [of Meagher] for judicial purposes until the first day of December, 1886, and the officers of

When to take effect.

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Meagher county shall act as officers of said parts of Fergus county until the date above named, except as otherwise provided in this act.

Boundaries of Choteau and Meagher counties.

SEC. 12. The county boundaries of Meagher and Choteau counties are hereby altered to conform to the county boundaries of Fergus county, as established in this act.

Approved March 12, 1885.

GAME, PROTECTION OF.

AN ACT to protect game.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Transportation out of this territory prohibited.

SEC. 1. After the passage of this act it shall be unlawful to ship, transport, or receive for transportation, carry or cause to be carried, in any manner whatsoever, from the territory of Montana to any other territory or state, the skin of any moose, deer, elk, bison, buffalo, antelope, or mountain sheep; and any person or persons, company or corporation, agent or employe of any stage, railway, or express company violating the provisions of this act shall, upon conviction thereof, be fined not less than fifty nor more than three hundred dollars, or imprisoned for a term not less than thirty days nor more than six months: *Provided*, that nothing in the provisions of this act shall prevent the shipment of any specimens that are stuffed or mounted as curiosities.

Penalty.

Exceptions.

SEC. 2. This act shall take effect and be in force on and after July 1, 1885.

Approved March 12, 1885.

GAME—FUR-BEARING ANIMALS—FISH.

AN ACT to amend section 13 of an act entitled "An act to protect game, fur-bearing animals, and fish," approved March 8, 1883.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 13 of an act entitled "An act to protect game, fur-bearing animals, and fish," approved March 8, 1883, be and is hereby amended as follows:

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Duty of grand jurors.

SEC. 13. It shall be the duty of all grand juries to investigate all infractions of any provision or provisions of this act, except such cases and infractions as may have been tried by a court of competent jurisdiction, and, upon due proof of the violation of any of the said provisions, they shall proceed to indict such party or parties, according to law; and it is hereby made the duty of the court to call the attention of each grand jury to the provisions of this act. The district court shall have concurrent jurisdiction with the probate court of all offenses committed under the provisions of this act, and be it further provided that, in construing this act, the provisions and penalties hereinbefore made and prescribed shall be deemed and held to include all Indians and half-breed Indians, when outside of an Indian reservation.

Indians and half-breeds outside their reservations, not exempted.

Approved March 8, 1885.

AN ACT to amend section 10 of an act approved March 8, 1883, entitled "An act to protect game, fur-bearing animals, and fish."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 10 of an act approved March 8, 1883, be amended to read as follows:

Legal fishing tackle defined.

SEC. 10. That a fishing tackle consisting of a rod or pole, line and hook, or spear shall be the only lawful way that fish can be taken in any of the streams, lakes, or ponds of this territory. It shall, however, be lawful to use a seine in the Missouri river, below the Three Forks, and in the Yellowstone river, below the mouth of Clarke's Fork. That said hook shall not be baited with any poisonous drug or substance, and that it shall be unlawful for any person or persons to make any dams or use any fish traps, seines, or similar means for catching fish, or to use any drugs or poison or giant powder or other explosive compound, intending to catch, kill, or destroy fish of any species: *Provided*, that it shall not be unlawful to use a seine or net for the purpose of taking fish to transplant into or stock other streams, lakes, or ponds, or for the purpose of taking minnows or small fish for bait for hook; and any person or persons, company or corporation,

Where use of seine is lawful.

Use of poisonous drugs prohibited.

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offending against this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than fifty dollars nor more than two hundred and fifty dollars, or shall be imprisoned for a period not less than thirty days nor more than six months, and shall pay the costs of prosecution. Penalty, on conviction.

SEC. 2. This act shall take effect from and after its passage.

Approved March 12, 1885.

GAS-LIGHT AND WATER COMPANIES.

AN ACT to protect gas-light and water companies.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. Every person who shall willfully or fraudulently injure or cause to be injured any meter, pipe, or fittings, connected with or belonging to any gas-light company, or connected with or belonging to the water-works of any corporation, company, or person, in this territory, supplying water at a stipulated rate of payment, or shall willfully tamper or meddle with any other of the appliances or appurtenances connected with or belonging to any such gas-light company, or to the water-works of such corporation, company, or person, in such manner as to cause loss or damage to said company, or corporation, or person, or who shall willfully or fraudulently prevent any meter used for the purpose of registering the quantity of gas or water supplied through the same from duly registering the quantity so passing through the same, or alter the index of any such meter, or in any way hinder, or delay, or interfere with its proper action or just registration, or shall fraudulently burn the gas of any such corporation, company, or person, or fraudulently use the water passing through such meter, pipe, fittings, or other of the appliances or appurtenances connected with or belonging to such gas-light company or water-works of such company or person, or willfully waste said gas or water, shall be guilty of a misdemeanor, and, upon conviction, shall be fined any Interference with any appliances prohibited. Penalty.

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sum not exceeding one hundred dollars, or imprisoned in the county jail not longer than thirty days, or both such fine and imprisonment, in the discretion of the court.

Approved March 12, 1885.

HURDY HOUSES.

AN ACT to suppress hurdy houses and dances.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 204, chapter XIII, fourth division, criminal laws of Montana territory, be amended so as to read as follows:

Keeping of hurdy houses prohibited

SEC. 204. It shall be unlawful for any person or persons, within this territory, to establish, keep, conduct, or maintain any dance house, commonly known or called hurdy house or hurdy gurdy house, or to allow or permit any dance, commonly known or called a hurdy dance or hurdy gurdy dance, upon his or her premises, or premises leased or occupied by him or her, or to give, sell, or dispose of any malt, vinous, spirituous, or intoxicating liquors of any kind whatsoever, to any person or persons engaged or participating in any dance, commonly known or called a hurdy dance or hurdy gurdy dance, or knowingly to give, sell, or dispose of any such intoxicating liquors at intervals between such dances to any person or persons engaged in such dance, during the day or night in which the same is carried on, and any person or persons, violating the provisions of this act, shall, for the first offense, be fined in a sum not exceeding one hundred dollars; for the second offense, or any offense thereafter, shall be fined in a sum not less than one hundred nor more than three hundred dollars, or imprisoned in the county jail not exceeding six months, or both such fine and imprisonment; and it shall be the duty of all peace officers in this territory to enforce the provisions of this act by making complaint against any

Selling of any intoxicating drinks at or between such dances prohibited.

Penalty for first offense.

Penalty for second and subsequent offenses.

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person or persons violating the same in all cases coming under their observation or to their knowledge.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved March 12, 1885.

INSURANCE COMPANIES.

AN ACT to amend section 32 of "An act regulating insurance companies," approved March 8, 1883.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 32, of "An act regulating insurance companies," approved March 8, 1883, be so amended as to read as follows:

SEC. 32. There shall be paid by every company, association, person or persons, agent or agent, to whom this act shall apply, the following fees:

For filing and examination of the first application of any company, and issuing the certificate of license thereon, fifty dollars; for filing each annual statement herein required, twenty-five dollars; which amount, and the said fee required for the filing and examination of the first application of any company, and issuing the certificate of license thereon, shall be collected by the territorial auditor, and paid by him into the territorial treasury; for each certificate of authority, two dollars; for every copy of paper filed, as herein provided, the sum of ten cents per folio, and fifty cents for certifying [to] the same, and affixing the seal of office thereto, all of which fees shall be paid to the officer required to perform the duties.

Fees for filing, &c.

Fee to be paid into the territorial treasury.

Other fees to be paid to the territorial auditor.

SEC. 2. This act shall take effect from and after its passage.

Approved March 12, 1885.

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INSANE INQUESTS.

AN ACT providing fees or jurors on insane inquests.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That whenever hereafter a jury shall be impaneled, as provided by law for the purpose of inquiring into the sanity of any person, the following fees shall be allowed to such jurors, to-wit:

Jury fees of physicians.

To each physician, impaneled on such jury, the sum of three dollars per day while engaged in such inquest.

Fees of other jurors.

To each person not a physician, impaneled on such jury, the sum of one dollar and fifty cents per day while engaged in such inquest.

Approved March 12, 1885.

JUSTICES OF THE PEACE—CONSTABLES.

AN ACT to limit the compensation of justices of the peace and constables.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the maximum amount that shall be allowed to any justice of the peace or constable in any county in this territory by the county commissioners thereof shall not exceed the sum of six hundred dollars per year; and any county commissioner or commissioners who shall allow to any justice of the peace or constable, for official services, a sum in excess of six hundred dollars in any one year shall be liable personally to the county from which such an amount shall be drawn for the excess allowed over and above such amount, to be collected by civil action, in the name of the county, against such commissioner or commissioners, who may be sued jointly or severally: *Provided*, no commissioner shall be liable, as herein provided, if he shall vote against such allowance, and shall cause to be entered on the journal of proceedings of the county commissioners at

Compensation of justices of the peace and constables limited.

County commissioners prohibited from allowing a greater amount.

All excess allowed, how collected.

Protest, how to be made.

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the time of such allowance his vote and protest against such allowance; and it is made the duty of the clerk of the board to so note such protest when so requested by any commissioner.

SEC. 2. Nothing in section 1 of this act shall be construed to permit any board of county commissioners to allow any justice of the peace or constable any greater or other compensation than that provided by law; but if the fees and compensation of any justice of the peace or constable, allowed by law, and for which the county is chargeable or responsible, shall exceed the sum of six hundred dollars, then such compensation shall be limited to six hundred dollars, and in no case shall exceed such sum.

Approved March 12, 1885.

LEGISLATIVE ASSEMBLY, ORGANIZATION OF.

AN ACT to provide for the organization of the legislative assembly.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the certificate of election from the clerk of the proper county, shall be held and considered as *prima facie* evidence of the right to membership of the person certified therein to be elected for all purposes of organization of either branch of the legislative assembly.

Certificate to be held as *prima facie* evidence of election.

SEC. 2. That at the time fixed by the laws of the United States and of this territory for the convening of any regular session of the legislative assembly the secretary of the territory, or in his absence or inability, then the oldest member present, shall take the chair and call the members of the council elect to order, and shall appoint from the members a clerk *pro tem.* The chairman shall then call over the council districts in their order, and, as the same are called, the persons claiming to be members shall present their certificates and take the oath now prescribed by law, which may be administered by

Temporary organization.

Secretary of the territory to call the members of the council to order.

Clerk *pro tem.*

Names of council districts to be called in their order.

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Oath to be administered. the chief justice or associate justice of the supreme court, or by any person authorized to administer oaths.

Permanent organization. SEC. 3. That after the members elect shall have taken the oath of office or affirmation aforesaid, if there shall be a quorum present, the council shall proceed to the election of the officers prescribed by law, in the order stated therein. The vote shall be by ballot.

Term of office of officers of the council. SEC. 4. That the officers of the council shall hold their offices during the session at which they are elected, but may be discharged by a resolution of the council.

How removed. The clerks and sergeant-at-arms shall control their assistants in their respective departments.

Oldest member present to call the house of representatives to order. SEC. 5. At the same time that is provided for the council being called to order it shall be the duty of the territorial auditor, and in case of his absence or inability, then the oldest member present in the hall of the house of representatives, to call the persons elected to that body to order, and appoint from those elected a clerk *pro tem.*

Clerk *pro tem.*

Counties and districts to be called alphabetically. The several counties and districts of the territory shall then be called over by the chairman in alphabetical order, and as [the names of] the members elect are called they shall present their certificates, and take the oath of office prescribed by law.

Certificates, how presented.

Oath. SEC. 6. As soon as all the members elect present shall have taken the oath or affirmation aforesaid, if there shall be a quorum present, they shall proceed to the election of officers of the house of representatives authorized by the law of the United States.

Permanent organization.

Subordinate officers to take the oath. SEC. 7. That the clerks and sergeant-at-arms shall take the oath of office prescribed by law, and shall hold their offices for the same time, and be removed in like manner as is provided for the same officers in the council.

How removed.

A majority of all votes cast necessary for election of officers in either branch. SEC. 8. That in all elections for officers of either branch of the legislative assembly, a majority of all the votes given shall be necessary to a choice.

SEC. 9. That whenever at the commencement of, or during the regular or extraordinary sessions of the legislative assembly, upon a call of either house it shall be

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found that no quorum of members is present, or if any member or members shall be found absent upon any such call, the members present shall be authorized to direct the sergeant-at-arms, or, if there shall be no sergeant-at-arms of such house, then any other person, to compel the attendance of any or all the absentees: *Provided*, that if the house refuse to excuse such absentee, he shall not be entitled to any per diem during such absence, and shall be liable for the expenses incurred in procuring his attendance.

Attendance of absentees, how enforced.

No compensation allowed to absentees.

SEC. 10. That no resignation of a member of the legislative assembly of the territory which shall be tendered during the actual session of the legislative assembly, shall be valid or of any effect until the branch of which the person tendering such resignation is a member shall have accepted the same by a vote of a majority of the members of such branch, exclusive of the person or persons tendering such resignation: *Provided*, that the provisions in this act shall apply only to such resignations as are tendered during the sitting of the legislature.

Resignation of members of no effect unless accepted by the house of which he is a member.

SEC. 11. That whenever any special or standing committee of the legislature shall require any person or persons to be sworn prior to making their statement or statements before said committees, the chairman thereof shall be and he is hereby authorized to administer oaths to said witnesses.

Chairman of committees to administer oaths in certain cases.

SEC. 12. All acts and parts of acts, in conflict with this act, are hereby repealed.

SEC. 13. This act shall take effect from and after its passage.

Approved March 12, 1885.

LIVE STOCK, PROTECTION OF.

AN ACT for the better protection of the live stock interests of the territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the governor of the territory is hereby authorized to nominate, and by and with the consent of

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Governor to nominate stock commissioners.

the council appoint a "Board of Stock Commissioners," consisting of one member for each of the counties of Dawson, Custer, Yellowstone, Meagher, Choteau, and Lewis and Clarke, who, upon entering on their duties,

To take an oath.

shall take an oath to support and uphold the constitution of the United States and the laws of the territory, and to well and truly perform their duties as provided by law, which oath shall be filed in the office of the secretary of the territory.

SEC. 2. Each member of said board so appointed shall be the owner of cattle or horses in the county for which

Must be owner of cattle or horses in the county for which he is appointed.

he is appointed, and shall be a resident of the county for which he is appointed. Said stock commissioners shall hold office for two years, or until their successors are appointed and qualified, and in case of vacancy from death, resignation, or removal from the territory, the governor shall appoint to fill said vacancy.

SEC. 3. The governor shall notify the persons so appointed, and when they have signified their acceptance of said appointment, shall issue to each a commission as a member of the board of stock commissioners, and shall fix a time and place for the first meeting of said board.

To elect a president.

SEC. 4. Said board shall at their first meeting, in pursuance to the governor's call, organize by electing one of their number president of said board, and shall appoint a secretary, who shall reside at the capital of the territory.

No compensation allowed.

SEC. 5. Said stock commissioners and their secretary shall receive no compensation or mileage for their services.

Duties.

SEC. 6. It shall be the duty of said board of stock commissioners to exercise a general supervision over, and so far as may be protect the stock interests of the territory from theft and disease, and shall devise and recommend from time to time such legislation as in their judgment will foster this important industry. Said board of stock commissioners may take all necessary and lawful steps, procure all necessary and lawful process for the attendance of witnesses, and employ any counsel they may deem proper to assist in the prosecution of any person or persons arrested as hereinafter provided, and it

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shall be the duty of said board, whenever they may deem it necessary, to assist in the prosecution and conviction of any and all persons guilty of any of the crimes and misdemeanors against the laws of this territory, in feloniously branding or stealing any stock, or any other crime or misdemeanor under any of the laws of this territory for the protection of the rights and interests of stock owners.

Commissioners may appoint stock inspectors and detectives.

SEC. 7. The said board of stock commissioners are hereby authorized, and it is made their duty, to appoint such stock inspectors and detectives as they may deem necessary for the better protection of the live stock interests of the territory.

Stock inspectors to give bonds.

SEC. 8. Said stock inspectors and detectives, so employed, shall each make and execute a bond, with two sufficient sureties, in the sum of three thousand dollars ($3,000), to the territory of Montana, conditioned for the full and faithful discharge of their duties. Said bond to be filed with, and approved by, the secretary of the territory, and shall each take and subscribe an oath to support and uphold the constitution of the United States and the laws of the territory, and faithfully and impartially perform the duties of their office, which oath shall be filed with said secretary of the territory.

Duties of stock inspectors.

SEC. 9. Said stock inspectors and detectives are hereby empowered, and it shall be their duty, to arrest all persons who shall violate the stock laws of this territory which shall come under their observation, and shall, upon information that any person or persons have committed any crime or misdemeanor against the laws of this territory, in feloniously branding or stealing any stock, or any other crime or misdemeanor under any of the laws of this territory for the protection of the rights and interests of stock owners, make the necessary affidavit for the arrest and examination of such person or persons, and shall, upon warrant issued therefor by any officer authorized to issue the same, immediately arrest such person or persons, and bring them before the officer issuing said warrant, or any other officer authorized to act in case of his absence or inability to act, to be dealt with according to law, and shall make due return of said warrant, and notify said board of stock commissioners of his acts and doings in that behalf.

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SEC. 10. Said stock inspectors and detectives shall be under the exclusive direction and control of said board of stock commissioners, and shall be paid for their services such sums as may be agreed upon by the board out of the fund hereinafter provided for, but in no case shall they receive any mileage.

County commissioners to levy a tax.

SEC. 11. It shall be the duty of the boards of county commissioners of each county in this territory named in section 1 of this act, at the time of levying the annual tax, to levy such tax as shall be recommended by said board of stock commissioners, not exceeding one and one-half mills on the dollar upon the assessed valuation of all cattle, horses, mules, and asses, in their respective counties, which shall be collected as other taxes upon like property, and, when so collected, paid into the hands of the territorial treasurer, who shall keep the same as a separate fund, to be known as the "Stock Inspector and Detective Fund," and which said fund shall be used in defraying the expenses incurred under the provisions of this act, and for such other purposes as in the judgment of said stock commissioners shall best subserve the stock interests of the territory.

Tax for year 1885, when levied.

SEC. 12. It shall be the duty of the county commissioners of each of the counties in the territory named in section 1 of this act, at their next regular meeting, after the passage of this act, or if any notice of its passage be not received in time, then at their next regular meeting thereafter, to levy the special tax of [for] the year 1885, not exceeding one and one-half mills on the dollar, as hereinbefore provided, which shall be collected and paid into the territorial treasury in the same m other territorial taxes.

Exemptions from tax.

SEC. 13. That when any person is the owner of not exceeding ten cows and two horses or two mules, such animals shall be exempt from taxation under the provisions of this act.

SEC. 14. That the expenditures in any year under the provisions of this act shall in no case exceed the special tax levied for that year.

SEC. 15. It shall be the duty of said board of stock commissioners to audit all bills for expenses incurred

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under the provisions of this act, and, if found correct and justly due, shall certify the same to the territorial auditor, who shall issue a warrant on the territorial treasurer in favor of the party or parties entitled thereto for the amounts so certified, which shall be paid whenever, and as soon as, any funds shall come into his hands properly applicable thereto. Said warrant or warrants shall specify that they were drawn on the "Stock Inspector and Detective Fund," and when presented for payment, if not paid for want of funds therefor, said treasurer shall indorse thereon the date of presentment, and that the same is not paid for want of funds, and said warrants shall thereafter bear the same rate of interest as territorial warrants, and be likewise paid out of said funds, and shall not be chargeable to or collected out of any other funds in the territorial treasury.

Bills for expenses, etc., how audited.

SEC. 16. For the purposes of this act, this territory shall be divided into two districts, and the counties of Dawson, Custer, and Yellowstone shall compose the first district, including also any counties that may be formed out of portions of said counties; and the counties of Meagher, Choteau, and Lewis and Clarke shall compose the second district, including also any counties that may be formed out of portions of said counties; and the stock inspectors and detectives are hereby made district officers, and said board of stock commissioners shall, in all cases, designate the district in which said inspectors and detectives shall serve, which shall be designated in their commissions.

Territory to be divided into two districts.

Counties composing first district.

Counties composing second district.

SEC. 17. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

MILITIA.

AN ACT to organize and regulate the militia.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That, for the purpose of creating greater efficiency in the militia system, it shall be lawful for any citizens to embody and organize themselves into companies,

Citizens may organize into companies.

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regiments, and batteries, in manner and form, and subject to the provisions and restrictions hereinafter prescribed, and such organization shall hereafter be known as the National Guard of Montana, and shall at all times be subject to the orders of their officers.

Commander-in-chief.

SEC. 2. The governor of Montana shall be commander-in-chief of the National Guard of Montana, and no militia company, regiment, or battery shall be organized without the permission of the governor and commander-in-chief in writing. He shall have authority to appoint and commission such staff officers as he may deem necessary to aid him in the transaction of militia affairs: *Provided*, that the staff shall not consist of more than seven, viz.:

Officers.

One adjutant general.
One inspector general.
One commissary general.
One quartermaster general.
One ordnance officer.
One mustering officer.
One surgeon general.

And they shall hold their commission during the pleasure of the governor, without compensation.

Orders of commander-in-chief, how distributed.

SEC. 3. The adjutant general shall distribute all orders of the commander-in-chief, and shall obey all orders relative to carrying into execution and perfecting any system of military discipline established by law: he shall annually make a return in duplicate of the militia of Montana, with their arms, accoutrements, and ammunition, according to such form as may be prescribed by the secretary of war of the United States, one copy of which he shall deliver to the commander-in-chief, and transmit the other to the president of the United States, on or before the first Monday in February: he shall annually, in December, lay before the auditor an account, with vouchers, of his expenditures as adjutant general.

Duties of officers.

SEC. 4. The inspector general, the commissary general, the quartermaster general, the ordnance officer, the surgeon general, and the mustering officer shall perform such service as the commander-in-chief may direct.

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Companies may adopt by-laws.

SEC. 5. In each county the citizens may organize themselves into companies and batteries as herein provided; and each company and battery so organized may ordain and establish such by-laws, rules, and regulations as they may deem necessary for their proper government, and as may not be inconsistent with this act, or the organic act and laws of Montana, or of the United States of America.

Number of members of company limited.

SEC. 6. Each company shall consist of not less than thirty (30) nor more than one hundred (100) men, rank and file.

What officers members of company may elect.

SEC. 7. The members of each company shall have power to elect a captain, a first lieutenant, and a second lieutenant; and when more than five companies have been duly organized and united they may form and organize themselves into a regiment, and elect a full complement of regimental officers; all of which said officers shall be elected in the presence of the mustering officer, or some other officer of the governor's staff detailed for that purpose, and who shall preside at such election, and certify to the governor the result thereof. The governor shall then commission the officer or officers so elected, unless in his opinion such appointment or appointments would be detrimental to the good of the service, in which case he shall order a new election.

How elected.

Governor to commission.

Members to take an oath.

SEC. 8. All members of the National Guard of Montana shall take an oath before the mustering officer, or the staff officer detailed by the governor for that purpose, to support the constitution of the United States, the organic act and laws of Montana, and to obey the commands of their officers for the period of three years.

How called out.

SEC. 9. That said companies, and other organizations herein provided for, shall be subject solely to the direct call of the governor of Montana, and of the regularly constituted civil authorities, for the suppression of insurrection or riot, or the repelling of invasion, or the enforcement of the execution of the laws according to the provisions of the constitution of the United States and the organic act and laws of Montana; and in all cases of demand or requisition for a military force by the sheriff or mayor it shall be by application to the governor and commander-in-chief.

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How armed and drilled.

SEC. 10. All such companies, regiments, and batteries, when organized, shall be armed and drilled, as near as practicable, in accordance with the system of the United States army for like organizations; and, while in actual service, shall be governed by the principles of the military laws of Montana, and rules and articles of war of the United States.

Public parade and exercise.

SEC. 11. Every such company, regiment, or battery shall, immediately upon its organization, fix certain days, not less than three in number, upon which, in each and every year, and at such hours as may be specified, it shall meet for public parade and military exercise, and for drill at such other times as may be provided by the rules and by-laws of such organization.

Bond to be given for arms issued.

SEC. 12. Such companies and batteries shall be entitled to use the public arms and ammunition of Montana, to be drawn upon the requisition of the commanding officer upon the adjutant general of Montana: *Provided*, however, that there shall be no arms issued except a bond in twice the full value of such arms be deposited with the adjutant general of Montana, which said bond shall be conditioned upon the return of such arms when demanded by the governor or adjutant general of Montana, and secured by at least two good and sufficient sureties to be approved by the governor.

Compensation.

Rations.

SEC. 13. That each and every member of such organizations shall receive one dollar and fifty cents per day, one dollar and fifty cents per night, or three dollars for each day and night together, and the usual United States army rations, when serving under the order of the governor to suppress riots, or to enforce the civil law, to be paid out of the county treasury, on the order of the county commissioners, if such service is requested by the county officers; and when called into active service by the governor, in case of invasion, riot, or insurrection, they shall receive a like compensation, to be paid out of the treasury of Montana, on the order of the governor.

Compensation for use of necessary animals.

SEC. 14. That whenever any portion of the National Guard organized under this act shall be called out to aid the civil authorities, as provided in section 9 of this act, they shall be allowed a fair and reasonable compensation

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for the use and keep of any animals necessarily used by them during such time, to be paid as prescribed in said section 13.

Penalty for mis-appropriation of public property.

SEC. 15. Any person found guilty of selling, disposing of, secreting, detaining, or refusing to give up any of the arms, accoutrements, ordnance stores, camp or garrison equipage, or munitions of war belonging to Montana, or who shall in any way injure any of the same, or any arsenal or armory belonging to or rented by Montana, or rented by any company, regiment, or battery organized under this act, shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, or shall be imprisoned in the county jail for the term of not more than three months, or both, at the discretion of the court.

Uniform.

SEC. 16. The uniform of such organizations may be such as each company may select; but the uniform of the staff shall be that of the United States army officers of like grade, with the exception that the buttons worn shall bear the coat of arms of Montana.

Governor to draw warrant on territorial treasury for certain expenses.

SEC. 17. That the governor shall draw his warrant upon the territorial treasurer for such sums as are necessary for the care and transportation of the territorial arms, ammunition, and ordnance stores, for the printing of such blanks as may be necessary for the proper management of the National Guard, and for the necessary traveling expenses of the officers of the general staff when detailed for special service, which sums shall not exceed five hundred dollars per annum; all such accounts to be sworn to by adjutant general of Montana as correct and necessary.

Fines and dues, how collected.

SEC. 18. That the fines and dues imposed by the organizations hereinbefore mentioned may be collected by process of law, as other debts are collected.

Members, how discharged.

SEC. 19. No member of the National Guard shall be dishonorably discharged, unless he has been tried by a court martial constituted as prescribed by the constitution and by-laws of the company of which he is a member, or by the United States army regulations, and the sentence has been approved by the commander-in-chief.

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Resignations.

SEC. 20. All resignations must be approved by the adjutant general, after having been accepted by the organization of which the resigning officer or soldier is a member.

Penalty for not providing suitable uniform.

SEC. 21. Any commissioned officer or member of the National Guard of Montana, refusing or neglecting to provide himself with a suitable uniform, shall forfeit, if an officer, his commission; if a non-commissioned officer or private, the sum of ten dollars, to be collected by the adjutant general, and paid into the company treasury of which company such persons are members.

Inspection of companies.

Amount to be received by each company for expenses.

SEC. 22. The commander-in-chief shall once in each year cause an inspection to be made by the inspecting officer of his staff of each infantry company, and if duly organized and found on examination of the rolls and report by the inspecting officer to be fully up to the standard of numbers, drill and discipline, shall receive, directly from the public treasury, upon a warrant drawn by the commander-in-chief to the order of the company commander, the sum of three hundred dollars per annum; and each artillery and cavalry company, upon like condition, the sum of four hundred dollars per annum; and the company commander shall pay the same to the company treasurer, taking his receipt therefor in duplicate, and a copy of which shall be returned to the adjutant general within twenty days after the receipt by him of said warrant.

SEC. 23. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1885.

NOTARIES PUBLIC.

AN ACT relating to notaries public.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That sections 909 and 916 of the fifth division of the revised statutes of Montana be amended to read as follows:

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Governor to appoint.

SEC. 909. The governor shall appoint one or more persons in each county in the territory notaries public for such county, whose official acts shall be confined to the county in which he is appointed, and whose term of office shall continue for the period of three years from the date of appointment, unless such appointment is sooner revoked by the governor.

Appointed for the county only.

Term of office.

Removal of residence.

SEC. 916. If a notary public removes his residence from the county for which he was appointed such removal shall be taken as a resignation.

May file his commission with clerk of the court.

SEC. 2. Any notary public appointed under the laws of this territory may file his commission in the office of the clerk of the district court in the county for which he was appointed, or in the county in which he resides, if appointed before the passage of this act, and thereafter the clerk of the court may certify to the official character of such notary public.

Clerk of the court may authenticate.

Fee of clerk of court for filing, &c.

SEC. 3. The clerk of the district court shall receive for filing the commission of any notary public the sum of fifty cents, and for each certificate of official character, with seal attached, issued, the further sum of fifty cents.

Notaries previously appointed may file commission, &c.

SEC. 4. Any notary public heretofore appointed under the laws of this territory, and whose commission has not expired at the date of the passage of this act, may continue to act in such official capacity throughout the entire territory, until the expiration of the time for which he was appointed, with all the power and authority conferred by law on such notary, and as fully as if this act had not been passed.

Approved March 12, 1885.

OLEOMARGARINE, ETC.

AN ACT to regulate the use of oleomargarine, butterine, suine, or any substance or article which may or can be used as a substitute for butter or cheese, and to prevent any such substance or article being sold, disposed of, or used, except by its true name.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. Any person or persons who shall offer, expose, or have for sale, or give or offer to give away, or in any

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Sale regulated.

manner dispose of, oleomargarine, butterine, suine, or any article, substance, or preparation, intended to be used, or which can be used, sold, given away, or disposed of, as a substitute for butter or cheese, or for any of the purposes for which butter and cheese are used, by whatever name the same may be designated, shall, in addition to the requirements now made by law as to notice, etc., post at least four notices, printed in plain Roman type, of at least one inch in length, three of said notices to be in the English and one in the German language, in four conspicuous places in each sales room, store, office, place or places, where said substance, article, or preparation is so kept or offered for sale or disposed of, said notices to contain the true name of such article, substance, or preparation, over the words "for sale here," and no other words whatsoever.

Notices to be posted.

Hotels, etc., using to post notices.

SEC. 2. Any person or persons keeping, conducting, running, or being the proprietor or proprietors of any hotel, inn, restaurant, boarding house, lunch room, place or places where meals are sold, [who] shall use, cause or allow to be used, or furnished in such hotel, inn, restaurant, boarding house, lunch room, place or places where meals are sold, any oleomargarine, butterine, suine, or any article or substance as a substitute for, or in the place of butter or cheese, shall post four notices, three in the English and one in the German language, printed in plain Roman type, of at least one inch in length, in five [four] conspicuous places in the room or rooms where said meals are furnished or sold, said notices to contain the true or common name of any such article or substance, over the words "used here instead of butter," and no other words whatsoever.

Butter and cheese adulteration defined.

SEC. 3. The addition to butter or cheese, by any process whatsoever, of the oil, fat, or lard of animals, not produced from milk or cream, or of any vegetable oil or substance, is hereby declared an adulteration.

Penalty for infraction of this act.

SEC. 4. Any person or persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars, and not more than one hundred dollars, or by imprisonment in the county jail for not less than ten days, nor more than thirty days, or

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by both such fine and imprisonment, one-half of such fine to be paid to the informer, and one-half to the county treasurer of the county where such fine is recovered.

SEC. 5. This act shall take effect sixty days after its final passage.

Approved March 12, 1885.

PERSONAL PROPERTY—CLAIM AND DELIVERY.

AN ACT to amend sections 155 and 739 of the first division of the revised statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 155, chapter 2, of the first division of the revised statutes be, and the same is hereby amended as follows:

SEC. 155. When a delivery is claimed, an affidavit shall be made by the plaintiff, or some one in his behalf, stating— Affidavits to be made.

First. That the plaintiff is the owner of the property claimed, particularly describing it, or is lawfully entitled to the possession thereof.

Second. That the property is wrongfully detained by the defendant.

Third. That the same has not been taken for a tax, assessment, or fine pursuant to a statute, or seized under an execution or an attachment against the property of the plaintiff, or if so seized, that it is by the statute exempt from seizure. And

Fourth. The actual value of the property.

SEC. 2. That section 739 of the first division of the revised statutes of Montana be amended to read as follows:

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SEC. 739. When a delivery is claimed, an affidavit shall be made by the plaintiff, or some one in his behalf, showing—

First. That the plaintiff is the owner of the property claimed, particularly describing it, or is lawfully entitled to the possession thereof.

Second. That the property is wrongfully detained by the defendant.

Third. That the same has not been taken for a tax, assessment, or fine pursuant to a statute, or seized under an attachment or execution against the property of the plaintiff, or if so seized, that it is by statute exempt from such seizure. And

Fourth. The actual value of the property.

Approved March 5, 1885.

POACHING—GUNNING.

AN ACT to prevent persons from hunting or shooting within the enclosures of others without leave.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Poaching prohibited.

SEC. 1. That it shall be unlawful for any person or persons to hunt with gun or dog within the enclosed grounds or lands of another, or to shoot into or upon such enclosed grounds or lands, without first obtaining from the owner, agent, or occupant of such enclosed grounds or lands, his, her, or their permission so to do.

Penalty for violation.

SEC. 2. Any person or persons, violating the provisions of section 1 of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined in a sum not less than five dollars nor more than one hundred dollars, or imprisoned in the county jail not more than three months, or by both such fine and imprisonment.

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SEC. 3. This act shall take effect from and after its passage.

Approved February 27, 1885.

POOR TAX.

AN ACT to amend sections 455 and 1021 of the fifth division of the revised statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That sections 455 and 1021 of the fifth division of the revised statutes be amended so as to read as follows:

SEC. 455. It shall be the duty of assessors to enter upon all assessment lists returned by them the special poor tax now required by law, and they shall be entitled to receive thereon the same compensation allowed them for the assessment of property in their county, but for the collection of the special poor tax of persons who pay no property tax they shall be entitled to receive ten per cent thereof.

Assessors, duties of.

Compensation for collection.

SEC. 1021. In addition to the tax required to be levied by the provisions of this article there shall be levied by the board of county commissioners of each county, at the same time the *ad valorem* tax is levied by them, a tax of two dollars upon each male inhabitant of this territory, over the age of twenty-one years. Such tax shall be denominated a "poor tax," and the money collected thereon shall be set apart by the board of county commissioners as a fund exclusively for the support and maintenance of the poor of each county. It shall be the duty of the assessors of the several districts to collect the said poor tax in money, and in the manner provided for in this article for the collection of taxes, except that said taxes shall be collected and payable at any time after the same are levied. For the purpose of collecting said poor taxes it shall be the duty of the board of commissioners of each county to provide blank printed receipts for such poor tax, which shall have proper stubs, with memorandum of names, amount, and date attached; and such

Poll tax, who liable to pay.

How collected.

Printed tax receipts to be furnished the assessors.

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blank receipts, or so many as may be necessary, shall be delivered by the clerk of said board of commissioners to the several assessors at the same time when the blank assessment lists are furnished to them; and each assessor shall receipt to the clerk for the number of blanks of poor tax receipts respectively received by him. The assessor shall give the proper receipt for each poor tax collected by him, and make the proper memorandum on the corresponding stub; and he shall on the first Monday in each month pay over to the county treasurer all moneys collected by him during the preceding month, and take the treasurer's receipt therefor, and return to the board of commissioners, at each of their regular sessions, or at any other time when required by the board, all stubs of receipts given, all blank receipts still on hand, and the receipts of the treasurer for the money paid him; and the board shall compare the number of blanks received by such assessor with his stubs and blanks on hand, and ascertain if they tally, and also if the money collected has been paid to the county treasurer; and, if the same be found correct, the assessor shall deliver up his remaining blank receipts, and therefor, the clerk shall give the assessor, on the order of the board, a certificate of such settlement of such assessor with the board. The assessor shall be liable on his official bond for the non-performance of his duties in collecting said poor tax, and for the money collected therefor by him; and the board of county commissioners shall have power, if they deem it necessary, to require any assessor to give additional bond for performing his duties and paying over money collected on said poor tax, in such sum as they shall designate.

Assessor to receipt for blanks.

Assessor to report and pay over moneys received monthly.

Assessor to settle with county commissioners quarterly, or oftener if requested so to do.

Assessor liable for non-performance of duties.

Additional bond may be required.

Approved March 12, 1885.

PRISONERS, BOARD OF.

AN ACT to amend an act to regulate the fees of sheriffs for board of prisoners, approved February 10, 1881.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the above recited act be so amended as to read as follows:

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SEC. 2. The fees allowed sheriffs of the several counties of this territory for the board of prisoners confined in jail, under their charge, shall be such as the county commissioners may deem a reasonable compensation therefor, not to exceed the sum of seventy-five cents per day for each prisoner when there is a less number than five; when there are five, or over that number, sixty cents per day.

Board of prisoners, compensation for to sheriffs.

[The foregoing act, having been presented to the governor of Montana territory on the eighteenth day of February, 1885, for approval, and not having been returned by him to that house of the legislative assembly in which it originated within the time prescribed by section 1842, chapter 1, title XXIII, revised statutes of the United States, has become a law without his approval.]

PRISONERS—TRANSPORTATION.

AN ACT to amend section 586, chapter 22, of fifth division, revised statutes of the territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 586 of the above-recited act be so amended to read as follows:

SEC. 586. For the transportation of persons convicted of a violation of the laws of the territory, and sentenced to confinement in the penitentiary, the sheriff, or other person appointed by the court for the purpose, shall, for said service, receive a per diem of five dollars for the time necessarily employed, and his or their actual reasonable and necessary expenses. The said sheriff, or other person, shall file a detailed statement, under oath, showing the amount actually paid as such expenses, the time employed in such service, the name of the prisoner transported, the county jail from whence the prisoner or prisoners were transported, and the distance necessarily traveled, and shall accompany his account with vouchers for all sums paid out by him for stage or railroad fare, or team, at the usual rates for himself, his prisoner or prisoners, and guard or guards who are actually and necessarily employed by him. The pay of each guard shall not exceed three dollars per day, and ordinary traveling expenses, which the sheriff shall include in his account. The sheriff may, if necessary, employ one guard for every

Transportation of prisoners, compensation to officers for.

Per diem.

Expenses.

To file an itemized statement of expenses, under oath.

Compensation of guard or escort.

Number of guards limited.

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two prisoners transported by him at the same time from any county jail to the penitentiary, as provided in this act; and the territorial auditor shall examine said account of the sheriff, and if he be satisfied that the same is correct, and that the amount of money charged was actually paid, he may draw his warrant on the territorial treasurer for the same.

Territorial auditor to examine accounts.

Approved March 10, 1885.

PRIZE FIGHTING.

AN ACT to punish and suppress prize fighting in the territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. If any person shall engage as principal in any fight or contest commonly called a prize fight, every person so offending shall, on conviction, be imprisoned in the penitentiary, and kept at hard labor, not less than six months, nor more than two years, and pay the costs of prosecution.

Prize fighting prohibited.

Penalty.

SEC. 2. If any person shall engage, be concerned in, or attend any such fight or contest, as described in the first section of this act, as backer, trainer, second, umpire, or assistant, every person so offending shall, on conviction, be fined in any sum not more than one hundred dollars, or be imprisoned in the county jail not less than ten days nor more than three months, or by both fine and imprisonment, in the discretion of the court, and pay the costs of prosecution.

Participants or attendants to be punished.

Penalty.

SEC. 3. If any person shall make affidavit before any justice of the peace or probate judge that he has reason to believe and does believe that any person or persons have entered into any arrangement or agreement to engage in a prize fight, or that such arrangement or agreement has been entered into by any other person or persons on the part of the persons who are to engage therein; or if any person shall make affidavit that any

Affidavit as to intended prize fight.

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person is in preparation or training for the purpose of engaging in a prize fight, it shall be the duty of the justice or judge before whom such affidavit is made to issue a warrant for the arrest of the person or persons named in the affidavit, and upon the hearing, if the court is satisfied of the truth of the charge made in the affidavit, it shall require the person or persons charged to make an oath that he will not engage in any prize fight in this territory, or to enter into a recognizance in not less than one thousand dollars, with two sufficient sureties, to be approved by the justice or judge, that he will not engage in any prize fight for the period of one year from the date of the recognizance. The person or persons failing or refusing to take said oath or enter into said recognizance, shall be committed to the county jail for three months, or until he will take said oath or enter into the recognizance mentioned.

Justice to issue warrant in certain cases.

Recognizance to be entered into.

Penalty for refusing to enter into recognizance.

SEC. 4. If any person taking the oath mentioned in the preceding section shall at any time thereafter engage as principal in any prize fight in this territory, in addition to the penalty prescribed by section one of this act, he shall be subject to indictment for perjury, and, upon conviction, to be punished therefor as prescribed by law.

Penalty for forfeiture of recognizance.

SEC. 5. If any sheriff or constable shall have information and reason to believe that such fight or contest, as is described in the first section of this act, is about to take place within his county, he shall forthwith summon a force of citizens of the county sufficient for the purpose, and suppress such fight or contest, and arrest all persons present thereat, who may be found violating any of the provisions of this act, and take them before the probate judge or justice of the peace, to be dealt with according to law.

Duties of officers.

SEC. 6. All fines and costs collected under the provisions of this act shall be paid into the treasury of the county, to the credit of the general fund.

Fines and forfeitures.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved March 10, 1885.

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QUAIL.

AN ACT to encourage the propagation of quail, and to punish killing thereof.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Quail, persons prohibited from killing.

SEC. 1. It shall be unlawful for any person to kill by fire-arms or other means any quail in this territory which have been turned loose for the purpose of propagation and domestication, or to kill the increase of such quail, for the term of six years from and after the passage of this act.

SEC. 2. Any person violating the provisions of this act shall be punished by fine not exceeding twenty-five dollars; and the possession of a dead quail shall be presumptive evidence that the person having it in possession killed the same, in violation of this act.

Approved March 12, 1885.

QUARTZ LODES.

AN ACT concerning the representation of quartz lodes.

Be it enacted by the Legislative Assembly of the T of Montana:

SEC. 1. The owner or owners of any quartz lode claim, who shall perform or cause to be performed the annual labor or make the improvements required by the laws of the United States, in order to prevent a forfeiture of the claim, may, at any time during the year in which said work was done or improvements made, file in the office of the county clerk and recorder of the county in which said claim is situated an affidavit or affidavits of the person or persons who performed such labor or made such improvements, showing—

Notice to be filed.

First. The name of the lode and where situated.

Second. The number of days' work done, and the character and value of the improvements placed thereon.

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Third. The date or dates of performing said labor and making said improvements.

Fourth. At whose instance or request said work was done or improvements made.

Fifth. The actual amount paid for said labor and improvements, and by whom paid when the same was not done by the owner or owners of said quartz claim.

Recorder, fees of for filing, &c.

SEC. 2. The clerk and recorder of the county in which said affidavit or affidavits are filed shall record the same in a book kept for that purpose, and be entitled to a fee of one dollar for recording each separate affidavit. When the affidavits are made jointly by two or more persons he shall be entitled to an additional fee of twenty-five cents for each name after the first; and said fee shall be the only one to which the recorder shall be entitled for filing and recording said affidavits, and indexing the same.

Certified copies to be admitted in evidence.

SEC. 3. The affidavit or affidavits named in the preceding sections, or copies thereof duly certified by the recorder of the county, shall be received or admitted in evidence in any court of justice in this territory, and be *prima facie* proof of the facts recited therein.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 27, 1885.

RANGE STOCK, ATTACHMENT OF.

AN ACT to facilitate the service of process upon personal property, and the transfer thereof in certain cases.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. Whenever it is necessary for any officer or person charged with the service of process out of any of the courts of this territory to take custody and possession of any cattle or horses running and roaming at large,

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and commonly known as range stock, between the first day of November and the next succeeding fifteenth day of May, it shall be a sufficient service of such process for the officer or person charged with the service of the same to file a copy thereof, with a notice appended thereto, containing the number, as near as may be, and a description of said stock by marks and brands, that such property, or a portion thereof, as the case may be, is attached, taken, levied upon, or seized, in pursuance of such process, with the recorder of the county wherein such property is running at large, within fifteen days after the receipt of such process for service, and shall make due return of his said proceedings upon said process.

How attached.

Copy of process to be filed with the county recorder.

SEC. 2. In all cases where it is necessary under the laws of this territory for a party to any mortgage, assignment, bill of sale, or other contract, between the first day of November and the next succeeding fifteenth day of May, to take custody and possession of any such cattle or horses in order to preserve his rights under any such mortgage, assignment, bill of sale, or other contract, it shall be sufficient for such party to file a copy of the instrument under which he claims, with a notice of such claim appended thereto, with the recorder of the county wherein such property is running at large, within five days after it becomes necessary for him to so take custody and possession of the same.

Mortgage, possession under, how acquired.

SEC. 3. When the copy of the process or instrument, with the proper notice appended thereto, is filed as hereinbefore provided, it shall have the same effect as if actual custody and possession of said cattle and horses has been taken by the officer or person charged with the execution of such process, or the party required under said instrument to take the same, and shall continue to have such effect until actual custody or possession of such propery has been taken or had by the officer, person, or party aforesaid, provided that such actual custody or possession be had or taken prior to the first day of August next succeeding.

Effect of filing.

Time attachment holds good limited.

SEC. 4. It shall be the duty of said county recorder to file all papers deposited with him for that purpose, and required to be filed under this act, and preserve the

Duties of county recorder.

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same as other records of his office are preserved, and furnish to persons making inquiry about such files all necessary information concerning the same, for which said services he shall receive from the party filing the process or instrument aforesaid the sum of one dollar for each paper so filed.

Property attached, penalty for selling or delivering.

SEC. 5. Any person or persons whose property has been taken, attached, levied upon, or seized by filing the process and notice aforesaid, or whose property has been affected by filing the instrument and notice aforesaid, who shall, with a knowledge of such facts, sell or otherwise dispose of such property, or any part thereof, with the intent to defraud any person or persons of their just rights in the premises, shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, be fined in a sum not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or by both such fine and imprisonment, but in no case shall such sale or transfer affect the rights of the parties secured by the provisions of this act by filing the papers aforesaid.

Second attachment may be made.

SEC. 6. When an officer into whose hands a writ of execution has come shall have served the same in accordance with section 1 of this act, and shall have made his return in accordance with the facts, at any time thereafter, within the time limited as hereinbefore provided, to hold the preperty seized, taken, or levied upon such writ, another writ of execution may be issued, which shall be supplementary to the first writ, and in pursuance of which the officer or person charged with the service thereof may sell the property held by said first writ, as hereinbefore provided.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

REAL ESTATE, ATTACHMENT OF.

AN ACT to amend section 184 of the first division of the revised statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the first and second subdivisions of section 184 of the first division of the revised statutes of Montana be amended to read as follows:

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How attached.

First. Real property shall be attached by filing with the recorder of the county a copy of the writ, together with a description of the property attached, and a notice that it is attached.

Notice to be filed.

Second. Real property, or any interest therein, belonging to the defendant, and standing upon the records of the county in the name of any other person, shall be attached by filing with the recorder of the county a copy of the writ, together with a description of the property, and a notice that such real property, and any interest of the defendant therein standing in the name of such other person, naming him, are attached.

Approved February 16, 1885.

ROADS AND HIGHWAYS.

AN ACT authorizing county commissioners to award contracts for keeping roads in repair.

Be it enacted by the Legislative Assembly of the Territory of Montana:

County commissioners may let contracts for keeping in repair.

SEC. 1. The board of county commissioners of the several counties may, in their discretion, let to the lowest responsible bidder, in pursuance of this act, a contract or contracts for repairing and keeping in good order the public roads in any road district now or which may hereafter be established.

May advertise for bids.

SEC. 2. The county commissioners, at their regular quarterly meeting on the first Monday in March, in each year, shall, in their discretion, advertise for bids for keeping in proper repair the public roads in any road district of the county, such advertisement to be published at least once a week, for four successive weeks, in some newspaper published within the county, or, if none is published therein, in a newspaper published nearest the county seat of the county. A copy of said advertisement shall also be posted on the door or bulletin board of the court house of the county, for at least four weeks before any contract is awarded. The advertisement shall state the name or number of the road district for which bids

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are invited, and the time of receiving bids, which in no case shall be later than the next quarterly meeting of the board of county commissioners, on the first Monday of June following. The advertisement shall also state the length of time the contract shall run, as provided in section 5 of this act.

Bids, how made.

SEC. 3. All bids must be in writing, and subscribed by the person or persons bidding; shall be sealed and addressed to the board of county commissioners, and indorsed "Bid for keeping in repair the public roads in (naming the road district)."

May award contracts to lowest bidder.

SEC. 4. At their regular meeting on the first Monday in June in each year, the board of commissioners shall open and examine all bids offered, and may either reject all bids or award a contract to the lowest bidder, in pursuance of the next section.

Contractor to give bond.

Duration of contract.

SEC. 5. If the commissioners decide to award a contract, the person or persons to whom it is awarded shall, before it is entered into, execute and deliver to the commissioners an undertaking, with two or more sureties, to be approved by the commissioners, in a sum not less than one thousand dollars, conditioned that the contractors will keep the public roads and highways of the district (naming it) in good order and repair, and suitable for the passage of animals, or loaded wagons, or both, as the case may be, for one year from the first day of July following until the same day in the succeeding year. Upon the execution and acceptance of said undertaking, the contract shall be awarded.

Road supervisor to inspect roads in charge of contractors and report.

Duty of road supervisor when complaint is made.

SEC. 6. The road supervisor of any road district in which contracts may be awarded, in pursuance of this act, shall inspect the public roads of his district, and report the condition thereof to the county commissioners, on or before each regular quarterly meeting of the board. The road supervisor shall also, upon written complaint that any public road of his district is not in proper repair, proceed, without delay, to examine the same, and if found in bad condition, he shall immediately notify the contractor or contractors to repair the road; and unless the contractor or contractors shall proceed,

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with reasonable diligence, to repair the road, the supervisor shall report the condition of the road, and the fact of the notification, and failure of the contractor or contractors to repair the same to one or more of the county commissioners; and the board of commissioners, at their first meeting after receiving said report, shall, or may, in their discretion, authorize the road supervisor of the district to repair the road, keeping an accurate account of the expense thereof, and shall report the same, duly verified, to the commissioners, on or before their next quarterly meeting. The commissioners shall withhold or deduct the cost of such repairs from any sum due or to become due to the person or persons who have contracted to keep the roads in repair.

Cost of repairs to be paid by contractor in certain cases.

SEC. 7. Whenever the board of county commissioners shall decide to establish any new road they may, in their discretion, award a contract for constructing it upon like terms and conditions as are expressed in this act for keeping roads in repair.

Commissioners may let contracts for building new roads.

SEC. 8. Payments to road contractors shall be made quarterly, by order drawn on the county treasurer, against the road fund, which shall be payable as are other county orders.

Contractors, how paid.

SEC. 9. All acts and parts of acts, in conflict with this act, are hereby repealed.

SEC. 10. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

ROAD SUPERVISORS.

AN ACT for the appointment of road supervisors, and defining their duties.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The board of county commissioners of the respective counties shall, at their regular meeting in

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March, A. D. 1887, and at each regular meeting in the month of March thereafter, appoint one or more road supervisors for their respective counties, who shall hold office for one year, and until their successors are appointed and qualified, unless sooner removed, as hereinafter provided. Road supervisors may be appointed by the county commissioners. Term of office.

SEC. 2. It shall be the duty of the road supervisors, under the direction of the county commissioners, to keep in proper repair all public roads of the district or districts for which he is appointed, to lay out and construct new roads, and perform such other duties as commonly pertain to road supervisors. Each shall receive the sum of three dollars per day while engaged in discharging his duties under the provisions of this act. Duties of road supervisors.

SEC. 3. Whenever the board of commissioners shall instruct or direct any road supervisor to repair any public road in his district, or construct any new road therein, it shall be the duty of the road supervisor to proceed, without unnecessary delay, to repair or construct said road. For this purpose he shall be empowered to employ suitable laborers and teams, and stipulate as to the price to be paid therefor, which in no case shall exceed the sum of two dollars and fifty cents per day for each man, and two dollars and fifty cents per day for each span of animals thus employed. He shall keep a correct account of all such labor, and give to the person performing it, or furnishing any animals, a certificate, stating the number of days' work performed, and the price agreed upon therefor, and the number of days any animals have been used, and the price to be paid therefor, not exceeding the limits above prescribed. The supervisor shall also make out and file with the county clerk, on or before each quarterly meeting of the commissioners, or monthly, if required by them, a detailed statement, showing— May employ laborers and teams. Compensation for labor and teams limited. To issue certificate for labor, &c. To file statement with county clerk.

First. The names of all persons employed to work on the public roads, and the number of days each person has worked, and the place or places where the work was done, and the price to be paid therefor. What certificate shall show.

Second. The number of teams used, and of whom employed, and the place or places where they worked, and the price of hire.

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Third. The number of days the supervisor himself has been employed in attending to the duties of his office.

Statement to be sworn to.

The above statement shall be sworn to by the supervisor, and filed with the county clerk, with the account for his services rendered.

County commissioners to examine accounts of road supervisors.

SEC. 4. The county commissioners, at the first quarterly meeting, or at any special meeting, held after filing the statement mentioned in the last section, shall examine the same, and, if found correct, shall cause an order to be drawn on the county treasurer, against the road fund, for the amount due any road supervisor for his services. Upon the presentation of any certificate issued by road supervisors, as provided in section 3 of this act, and a verification by the owners thereof as in other cases of claims against the county, the commissioners shall cause to be issued to the owner or holder of such claim an order for the amount thereof, drawn on the county treasurer, against the road fund.

How the account shall be paid.

Penalty for falsifying account by road supervisors.

SEC. 5. Any road supervisor who shall issue any false or fraudulent certificate for labor or animals employed, or who shall issue a certificate for any greater number of days' labor than was actually performed, or for any greater price than was actually agreed to be paid for such labor or the use of such animals, or who shall collusively or fraudulently make any agreement or stipulation whereby he is to receive any part of the money which shall or may be paid upon any certificate, or who shall make any false statement as to the time which he has been engaged in attention to his duties as road supervisor, shall, upon conviction thereof, be fined in any sum not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment, in the discretion of the court, and shall be removed from the office of road supervisor. Any person knowingly receiving from any road supervisor any false or fraudulent certificate, such as that above named, or who shall stipulate or agree to pay to the road supervisor any part of the money received thereon, shall, upon conviction, be fined in a sum not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than ten days nor more

Penalty for other violations of this act.

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than thirty days, or by both such fine and imprisonment, in the discretion of the court, and shall forfeit the amount of money called for by such fraudulent certificate.

When county commissioners may appoint other supervisors.

SEC. 6. Upon the neglect or failure of any person appointed road supervisor to perform the duties required under this act, or upon the death, resignation, removal, or other disability, of any road supervisor, the county commissioners, at their next regular meeting after such disability occurs, shall appoint a road supervisor, who shall hold the office for the unexpired term of the person in whose stead he was appointed.

SEC. 7. The provisions of this act shall extend to and be applicable to the road supervisors now elected and in office.

Repealing clause.

SEC. 8. An act entitled "An act concerning road supervisors," approved February 21, 1881, an act entitled "An act concerning the official terms of road supervisors," approved February 22, 1881, and all other acts and parts of acts, in conflict with this act, are hereby repealed.

SEC. 9. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

ROAD TAXES.

AN ACT in relation to road taxes, and to repeal sections 1070 to 1076, inclusive, and section 1078, of the fifth division of the revised statutes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Amount of poll tax, levy annually; On whom levied.

SEC. 1. There shall hereafter be levied and collected, annually, on all taxable property in each county of the territory, not less than one nor more than two mills on the dollar, also a tax of three dollars on each able-bodied man between the ages of twenty-one and forty-five years, which shall be known as a road tax, and which shall be

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Proviso. expended, under the direction of the county commissioners, on the public roads of the several counties: *Provided*, that nothing herein shall be deemed or construed to conflict with or repeal an act entitled "An act to provide for the levy and collection of street taxes in incorporated towns and cities," approved March 7, 1883.

Manner of collecting. SEC. 2. If any person required to pay the poll tax mentioned in the preceding section has no property subject to taxation, it shall be the duty of the county assessor to collect the poll tax at the time of making the assessment, and if it be not paid at the time, if the person owing the same is in the employ of any other person, company, or corporation, it shall be the duty of the assessor to deliver to the person, company, or corporation employing such person or persons a written notice, stating the amount of the tax owing by any employe or employes, and from the time of receiving said notice the person, company, or corporation employing such delinquent shall be liable to pay said tax, and the tax so paid may be deducted by such employer from the amount then due or to become due to such employe.

Duties of employers. SEC. 3. Any person, company, or corporation, having in his or their employ any person liable to pay the tax of three dollars mentioned in section one, shall, at the request of the assessor, give to him a complete list of all the persons so employed, and if any person, company, or the superintendent or managing agent of any corporation, shall neglect or refuse to furnish said list for five days after demand made to furnish it, the person, company, or corporation so neglecting or refusing shall be liable for the tax, and the assessor shall proceed to levy the same as in cases where persons neglect or refuse to list their property, as defined in section 1015 of the fifth division of the revised statutes.

Duties of assessors. SEC. 4. The assessor shall pay over to the county treasurer all moneys collected as a special tax, and take a receipt therefor, and shall also deliver to the treasurer a list of the persons who have paid the same, or for whom it has been paid, and also a list of all the persons liable to pay said tax, but who are delinquent. The treasurer shall thereafter collect the tax from such as are delinquent, if in his power, and if not, he shall return a

Duties of county treasurers.

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list of all persons who have failed to pay to the board of county commissioners with his annual report of taxes collected. The assessor shall also return a list of the persons, company, or corporations mentioned in section three, which have neglected or refused to return a list of the persons in their employ, and the amount for which each has been assessed, and the treasurer shall collect the amount thereof as in other cases of assessment and levy.

Repealing clause.

SEC. 5. Sections 1071, 1072, 1073, 1074, 1075, 1076, and 1078, of the fifth division of the revised statutes of Montana, and all acts, and parts of acts, in conflict with this act, are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

SAW-MILLS—SAW-DUST.

AN ACT to amend section 1 of an act approved February 21, 1881, relating to the protection of fish.

Be it enacted by the Legislative Assembly of the Territory of Montana:

That section 1 of an act approved February 21, 1881, relating to the protection of fish, be amended to read as follows:

Duties of saw-mill owners and operators.

SEC. 1. That all persons having in operation, and all persons who may hereafter construct and put in operation, in the territory of Montana, either in person or by agent, any saw-mill on any stream containing fish, are hereby required to so care for any saw-dust that may eminate from any such saw-mill or saw-mills, as to prevent the same from mingling with the waters of any such stream. And all persons owning [or] operating, or who may hereafter own, construct, or operate any saw-mill on any stream containing fish, who shall drop, dump, or cart, or cause to be deposited in such stream any such quantity of saw-dust, bark, or debris, shall be deemed

Penalty for non-compliance.

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guilty of a misdemeanor, and, upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not exceeding fifty dollars for each and every offense.

Approved March 12, 1885.

SCHOOL DISTRICT BONDS.

AN ACT to amend an act entitled "An act to authorize school trustees to issue bonds to build or provide school houses."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section one of an act entitled "An act to authorize school trustees to issue bonds to build or provide school houses," approved March 2, 1883, be, and the same is hereby amended as follows:

Amount of bonds to be issued limited.

That said section shall not be so construed as to authorize any such board of school trustees to submit such question of issuing bonds to the electors of any school district more than one time; nor shall the entire levy for such purpose exceed two per cent. on the taxable property of the district; and whenever the bonds of any school district, for such purpose, shall have been issued to such an amount, such question shall not be again submitted, nor shall any additional bonds be issued, until the entire outstanding bonds be paid.

Question of issuing bonds to be submitted but once.

SEC. 2. This act shall not apply to an act entitled "An act to authorize the school trustees of school district No. 1, of Deer Lodge county, to issue additional bonds for certain purposes," approved February 13, 1885.

Approved March 12, 1885.

SCHOOL TEXT BOOKS.

AN ACT to amend an act entitled "An act to establish a series of text books for the public schools," approved February 23, 1881.

Be it enacted by the Legislative Assembly of the Territory of Montana:

That an act entitled "An act to establish a series of text books for the public schools," approved February 23, 1881, be amended to read as follows:

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SEC. 1. The text books in the several branches required by law to be taught in the public schools of Montana shall be uniform throughout the territory. Text books shall be uniform.

SEC. 2. School text books shall be adopted for periods of four years, and such text books, when adopted, shall be the only text books for the several branches used in the public schools of the territory, except as hereinafter provided: *Provided*, that nothing in this act shall be construed to prevent school trustees from authorizing the use of such text books supplementary to, but not to the exclusion of, the text books adopted for the territory, as the special needs of their schools may require. Period of time of their adoption limited. Proviso.

SEC. 3. That the text books hereinafter named are hereby adopted for exclusive use in the public schools of this territory for the term of four years from the first day of July, A. D. 1885, or until changed in pursuance of law: *Provided*, that this section shall take effect only when the publishers of the books hereby adopted shall have filed with the territorial secretary their bonds with at least two sufficient sureties, to be approved by the governor, in the penal sum of ten thousand dollars for each publishing house, conditioned that they shall, for the period of this adoption, keep the said books, and each of them, for sale at wholesale in the city of San Francisco, Cal., to all merchants in this territory, or to school trustees desiring to purchase the same from time to time, in such quantities as may be requisite to supply their schools, at prices not exceeding the wholesale prices hereinafter named; and they shall also keep, or cause to be kept at all times during said period, the said books at retail in sufficient quantities in at least one town in each county of this territory at prices not exceeding the retail prices hereinafter named. That in case the current wholesale market rates of said books shall ever hereafter be reduced below the said wholesale prices hereinafter named, then all merchants and all school trustees desiring to purchase books for the supply of their schools shall have the benefit of such reduction, and a corresponding reduction shall be forthwith made in the retail prices guaranteed to the people of this territory; that for the period of one year from the first day of July, A. D. 1885, they will cause the said books to be sold at retail in at least one town in each county in this territory, and on the aplication of any For what period adopted. Publishers to give bonds. To be kept for sale in this territory. Dealers, teachers, &c., to receive the benefit of any reduction in price.

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school officer, they will forward the same by mail or express, carriage free, from San Francisco at the prices hereinafter named, set opposite the names of said books in the column headed "introduction;" that they will for a period of six months from the said first day of July, A. D. 1885, in at least one town in each county of the territory exchange copies of the books hereby adopted grade for grade, for old books of other series now in the hands of pupils upon the payment in cash at the time of surrendering the old books, of the price hereinafter set opposite the names of said books in the column headed "exchange," except the Bancroft series of readers, which shall be exchanged free by giving a new book of any grade required for an old book of any grade surrendered; in any other series that they will prepare for Harper's school geography, a full page map of Montana, from latest compilations, engraved in the best style, together with such a reasonable and proper amount of special geography of Montana as shall be satisfactory to the territorial superintendent of public instruction, and will cause the same to be included in all copies of said geography supplied by them to the people of this territory; that they shall maintain the mechanical excellence of said books at least equal to their present standard, in respect to binding, printing, quality of paper and all other essential features; and that any of said books which require revision from time to time, and that those sold to the people of this territory, shall always be of the latest revised edition.

Terms of exchange.

Map of Montana.

Standard of binding and paper to be maintained.

SEC. 4. In case the publishers of the books hereby adopted shall not on or before the first day of July, A. D. 1885, file with the secretary their bonds as hereinbefore provided, or in case they shall not, on or before the first day of July, 1886, have performed all of the obligations of their bond, in respect to the introduction and exchange of books, and the preparation and supply of the special map and geography of Montana for Harper's school geography, or in case they shall, at any time thereafter, violate or fail to perform any of the conditions specified in their bonds as hereinbefore provided, and shall fail, within a reasonable time after due notice, mailed to them by the territorial superintendent of public instruction, to make good their guarantee in any respect in which they may have failed, then this adoption shall become null and void, and the series of text books now in use in the

Mode of procedure in case of failure to perform obligations by publishers.

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schools shall remain the legal text books until changed by law; and the said books hereby adopted, upon compliance with the conditions aforesaid, shall be continued in use until otherwise provided by statute. It shall be the duty of the superintendent of public instruction to proceed by suit in the name of the territory, to enforce and collect the bond of the publishers so failing, for the benefit of the common schools of the territory.

SEC. 5. The following are the titles of the text books adopted by this act, with the introductory and exchange prices which the publishers shall be bound to maintain as hereinbefore provided: to-wit, the introductory prices for one year from and after the first day of July, 1885, and the exchange prices from said first day of July, 1885, to the first day of January, 1886, and the wholesale and retail prices which they shall be bound to maintain thereafter:

Titles of text books and prices.

NAME OF BOOK.	Wholesale prices. Ten per cent off the list prices here given in San Francisco.	Retail prices.	Introductory prices.	Exchange prices.
Bancroft's First Reader,	$0 18	$0 25	$0 15	$
Bancroft's Second Reader,	32	40	25	
Bancroft's Third Reader,	45	55	35	
Bancroft's Fourth Reader,	55	65	45	
Bancroft's Fifth Reader,	75	90	55	
Harper's Introductory Geography,	55	75	35	25
Harper's School Geography,	1 10	1 40	80	60
Swinton's Language Primmer,	28	35	21	15
Swinton's Language Lessons,	38	45	28	30

SEC. 6. Whenever the publishers of the books hereby adopted shall have filed their bond, as hereinafter provided, it shall be the duty of the territorial superintendent

List of prices to be publicly posted.

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of public instruction to cause all prices of the text books, as guaranteed by the publishers, to be properly printed and distributed, through the county superintendents, to the trustees of the several school districts, who shall cause the same to be kept constantly posted in a conspicuous place in each school room in their district, and it shall be the duty of the several county superintendents to keep themselves informed as to whether such prices are actually maintained by the said publishers; and in case of failure, to at once notify the territorial superintendent, who shall then proceed as hereinbefore provided.

Forfeiture for using other text books.

SEC. 7. Any school district which shall, after the first day of July, A. D. 1886, use other text books than those herein adopted for the same studies, shall forfeit twenty-five per centum of the county fund apportioned to it, and the sum so forfeited shall be reapportioned among the other school districts of the county which shall have complied with this act.

Duty of school officers.

SEC. 8. All school officers and teachers are charged with the execution of this law, and the county school superintendent shall require the trustees of the several school districts, or the clerks thereof, to report annually whether the authorized text books are used in their schools.

Other books to be furnished, and at what rates.

SEC. 9. The publishing houses with which contract is made for furnishing the school books herein adopted, shall furnish at the same discount from the wholesale list of prices, all supplementary and high school books which may be required by trustees and other school officers throughout the territory, and which are published by said houses or either of them.

SEC. 10. The legislature may at any time alter or repeal this act.

Approved March 12, 1885.

SCHOOL TEXT BOOK COMMISSION.

AN ACT to create a school text book commission.

Be it enacted by the Legislative Assembly of the Territory of Montana:

School text book commission to be appointed.

SEC. 1. There is hereby created a commission, to be known as the school text book commission. Said commission shall consist of the territorial superintendent of

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public instruction, and two other persons, one of whom shall be a practical teacher, to be appointed by the governor, by and with the advice and consent of the legislative council. They shall hold office till the end of the session of the next legislative assembly. How appointed.

SEC. 2. It shall be the duty of the school text book commission, during the ensuing two years, to carefully examine the school text books now in use, and to report to the next legislature what changes, if any, should be made in the present series, with their reasons in full therefor, and, in case any changes are recommended, the terms on which the books recommended can be obtained, and such other information as, in their judgment, may be useful to the legislature. Duties.

SEC. 3. It shall be the duty of the territorial superintendent of public instruction, in behalf of the commission, to correspond with firms known as school-book publishers, inviting them to send samples of school text books, with the prices at which they will be supplied at wholesale. The members of the commission shall be repaid their actual expenses in traveling to and from the capital of the territory, on or before the assembly of the next legislative assembly, for the purpose of making the report contemplated in the second section of this act, and shall also be paid five dollars per day while engaged in preparing said report, provided that not more than three days' time shall be thus employed and paid for. Duty of superintendent of public instruction. Compensation.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

SWINE.

AN ACT to amend sections 1193 and 1194, fifth division, revised statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

That sections 1193 and 1194, revised statutes of Montana, be amended to read as follows:

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Prohibited from running at large in certain counties.

SEC. 1193. That the owner or owners of swine are hereby prohibited from letting the same run at large, at any season of the year, in the counties of Lewis and Clarke, Gallatin, Missoula, Yellowstone, and Choteau, or in any town or village in any county of this territory having a population of over ten inhabitants.

Punishment for violation.

SEC. 1194. Any person or persons violating the provisions of this chapter shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of ten dollars for the first offense, and in the sum of twenty dollars for each subsequent offense, and shall be liable in damage to any party injured thereby, to be recovered in any court having competent jurisdiction.

[The foregoing act, having been presented to the governor of Montana territory on the eighteenth day of February, 1885, for approval, and not having been returned by him to that house of the legislative assembly in which it originated within the time prescribed by section 1842, chapter 1, title XXIII, revised statutes of the United States, has become a law without his approval.]

TAX LEVY, TERRITORIAL.

AN ACT to authorize the levy of an additional mill for territorial purposes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Territorial tax levy, what amount.

SEC. 1. There shall be levied, annually, by the board of county commissioners of each county of this territory, and collected by the county treasurer of such counties, an ad valorem tax on each dollar of assessed valuation, on all property in this territory subject to taxation, for territorial purposes, on each dollar, two mills. The board of county commissioners of the several counties of this territory are hereby authorized and required, at their next regular session thereof, to levy one mill in addition to the levy already made for the year 1885.

Amount to be levied in 1885.

SEC. 2. All acts and parts of acts, in conflict with this act, are hereby repealed.

Approved March 12, 1885.

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TERRITORIAL AUDITOR.

AN ACT to amend section 62 of the fifth division of the revised statutes of Montana, authorizing the territorial auditor to use an engraved *fac-simile* signature in issuing licenses and tax receipts.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 62 of the fifth division of the revised statutes of Montana be and the same is hereby amended to read as follows:

Territorial auditor to furnish blank license receipts.

SEC. 62. The territorial auditor shall furnish the collector of each county with blank licenses and receipts for money collected or to be collected, subscribed by himself or his engraved *fac-simile* signature, taking the collectors' receipt of the counties [collectors of the counties' receipt] for the same.

Auditor may use engraved signature.

Penalty for illegally using engraved signature.

SEC. 2. Whoever, with intent to defraud, uses, utters, or publishes, or attempts to use, utter, or publish, any license or tax receipt authorized to be signed by the territorial auditor by means of a stamp or press engraved with and imprinting a *fac-simile* of his sign-manual, knowing such signature to have been affixed thereto falsely, and without the authority of the territorial auditor, shall be deemed guilty of forgery, and punished accordingly.

Approved March 12, 1885.

TOWN-SITE PLATS.

AN ACT to amend section 1219 of chapter 67 of the fifth division of the revised statutes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 1219 of chapter 67 of the fifth division of the revised statutes be amended to read as follows:

SEC. 1219. For the purpose of raising funds to defray the expense incurred in entering, surveying, and platting

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Cost of survey to be deposited with county treasurer.

said town site, the citizens petitioning for the same, as provided in section 1205 of this chapter, shall deposit with the county treasurer, prior to the time of filing of such petition, a sum of money sufficient to defray the expenses thereof: *Provided*, that, after a sufficient sum of money has been realized out of the sale of any lots sold by the probate judge or corporate authorities to defray such expenses, the money so deposited with the county treasurer shall be by him refunded to such petitioners.

Proviso.

Approved March 5, 1885.

VETERINARY SURGEONS.

AN ACT to amend section 11 of an act entitled "An act to suppress and prevent the dissemination of contagious and infectious diseases among domestic animals and Texas cattle," approved March 10, 1885.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Qualifications of veterinary surgeons.

SEC. 1. That section 11 of an act entitled "An act to suppress and prevent the dissemination of contagious and infectious diseases among domestic animals and Texas cattle," approved March 10, 1885, be amended by adding thereto the following: *Provided*, that the first territorial veterinary surgeon appointed in accordance with the provisions of this act need not necessarily be a graduate in good standing of a recognized college of veterinary surgeons, either in the United States, Canada, or Europe, or of any veterinary college whatsoever.

Approved March 12, 1885.

WATER RIGHTS.

AN ACT relative to water rights.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Acquired by appropriation.

SEC. 1. That right to the use of running water flowing in the rivers, streams, canyons, and ravines of this territory, may be acquired by appropriation.

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SEC. 2. The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest abandons and ceases to use the water for such purpose the right ceases; but questions of abandonment shall be questions of fact, and shall be determined as other questions of fact. For what purposes.

SEC. 3. The person entitled to the use of water may change the place of diversion, if others are not thereby injured, and may extend the ditch, flume, pipe, or aqueduct, by which the diversion is made, to any place other than where the first use was made, and may use the water for other purposes than that for which it was originally appropriated. What changes may be made in location.

SEC. 4. The water appropriated may be turned into the channel of another stream and mingled with its waters, and then [be] reclaimed; but, in reclaiming it, water already appropriated by another must not be diminished in quantity, or deteriorated in quality. How diverted and reclaimed.

SEC. 5. As between appropriators, the one first in time is first in right.

SEC. 6. Any person hereafter desiring to appropriate water must post a notice in writing in a conspicuous place at the point of intended diversion, stating therein: First, the number of inches claimed, measured as hereinafter provided; second, the purpose for which it is claimed and place of intended use; third, the means of diversion, with size of flume, ditch, pipe, or aqueduct, in which he intends to divert it; fourth, the date of appropriation; fifth, the name of the appropriator. Within twenty days after the date of appropriation the appropriator shall file with the county recorder of the county in which such appropriation is made a notice of appropriation, which, in addition to the facts required to be stated in the posted notice, as hereinbefore prescribed, shall contain the name of the stream from which the diversion is made, if such stream have a name, and if it have not, such a description of the stream as will identify it, and an accurate description of the point of diversion on such stream with reference to some natural object or permanent monument. The recorded notice shall be verified by the affidavit of the appropriator, or some one in his behalf, which Proceeding necessary to acquire.

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affidavit must state that the matters and things contained in the notice are true.

Duties of appropriator.

SEC. 7. Within forty days after posting such notice the appropriator must proceed to prosecute the excavation or construction of the work by which the water appropriated is to be diverted, and must prosecute the same with reasonable diligence to completion. If the ditch or flume, when constructed, is inadequate to convey the amount of water claimed in the notice aforesaid, the excess claimed above the capacity of the ditch or flume shall be subject to appropriation by any other person, in accordance with the provisions of this act.

Rights forfeited, when.

SEC. 8. A failure to comply with the provisions of this act deprives the appropriator of the right to the use of water as against a subsequent claimant who complies therewith, but by complying with the provisions of this act, the right to the use of the water shall relate back to the date of posting the notice.

Rights already acquired how preserved.

SEC. 9. Persons who have heretofore acquired rights to the use of water shall, within six months after the publication of this act, file in the office of the recorder of the county in which the water right is situated a declaration in writing, except notice be already given of record as required by this act, the same facts as required in the notice provided for record in section 6 of this act, such declaration shall be verified as required in section 6 of this act, in cases of notice of appropriation of water: *Provided*, that a failure to comply with the requirements of this section may in nowise work a forfeiture of such heretofore acquired rights, nor prevent any such claimant from establishing such rights in the courts.

Records to be received in courts.

SEC. 10. The record provided for in sections 6 and 9 of this act, when duly made, shall be taken and received in all the courts of this territory as *prima facie* evidence of the statements therein contained.

Proceedings in case of suit of law.

SEC. 11. In any suit hereafter commenced for the protection of rights acquired to water under the laws of this territory, the plaintiff may make any or all persons who have diverted water from the same stream or source parties to such action, and the court may in one decree settle the relative priorities and rights of all the parties to

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such suit. When damages are claimed for the wrongful diversion of water in any such suit, the same may be assessed and apportioned by the jury in their verdicts, and judgment thereon may be entered for or against one or more of several plaintiffs, or for or against one or more of several defendants, and may determine the ultimate rights of the parties between themselves.

SEC. 12. In any action concerning joint water rights, or joint rights in water ditches, unless partition of the same is asked by parties to the action, the court shall hear and determine such controversy as if the same were several as well as joint.

Duties of county recorder.

SEC. 13. The recorder of each county must keep a well-bound book, in which he must record the notices and declarations provided for in this act, and he shall be entitled to have and receive the same fees as are now or hereafter may be allowed by law for recording instruments entitled to be recorded.

Water, how measured.

SEC. 14. The measurement of water appropriated under this act shall be conducted in the following manner: A box or flume shall be constructed with a head-gate placed so as to leave an opening of six inches between the bottom of the box or flume and lower edge of the head-gate, with a slide to enter at one side of and of sufficient width to close the opening left by the head-gate, by means of which the dimensions of the opening are to be adjusted. The box or flume shall be placed level, and so arranged that the stream in passing through the aperture is not obstructed by back-water, or an eddy below the gate; but before entering the opening to be measured the stream shall be brought to an eddy, and shall stand three inches on the head-gate, and above the top of the opening. The number of square inches contained in the opening shall be the measure of inches of water.

Approved March 12, 1885.

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SPECIAL LAWS.

AN ACT to enable the board of county commissioners of Custer county to fund the county indebtedness.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The board of county commissioners of Custer county are hereby authorized to issue the bonds of said county in an amount not exceeding two hundred and forty-five thousand dollars, said bonds to be used for the redemption of the outstanding orders, allowed accounts, and warrants of said county, and to pay off any judgments against said county.

SEC. 2. The bonds issued under the provisions of this act shall be in denominations of one hundred dollars, five hundred dollars, and one thousand dollars, and no other denominations, and shall be payable to the owner at the fiscal agency of Custer county, in the city of New York, and shall run not less than six nor more than twenty years from the date thereof, and shall bear interest at a rate not exceeding seven per cent per annum, payable semi-annually, for which interest coupons shall be attached to said bonds, each coupon bearing the same number as the bond, payable to bearer, at the fiscal agency of Custer county, in the city of New York, on the first days of January and July of each year; and each of said bonds and coupons shall be signed by the chairman of the board of county commissioners of said county, and countersigned by the county clerk, and the bonds shall each have the seal of said county affixed thereto; and said bonds shall be registered by the county treasurer in a book to be kept by him for such purpose: *Provided*, that the

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bonds herein provided for may, at the option of the board of county commissioners, be made redeemable at any time after six years. The coupons for interest on said bonds shall, when due, be received at par by the county treasurer for all county taxes.

SEC. 3. The bonds may be exchanged by the board of county commissioners, at any regular session of said board, for orders, allowed accounts, or warrants, of said county, issued prior to the first day of June, 1885, with accrued interest thereon, dollar for dollar, and the orders, allowed accounts, or warrants, so received, shall be cancelled as provided by law in other cases; and in case the holder or holders of any such county warrants shall refuse to accept the bonds issued under the provisions of this act, then it shall be the duty of the board of county commissioners to sell for cash, for not less than par, a sufficient number of said bonds issued under the provisions of this act, to pay off and redeem the aforesaid indebtedness of said county; and the moneys derived from such sale shall be paid over to the county treasurer, to be by him disbursed in payment of the outstanding orders, allowed accounts, or warrants aforesaid, or any judgments obtained thereon, but for no other purpose. No commissions or draw-backs shall be allowed for negotiating said bonds.

SEC. 4. The board of county commissioners of said county shall levy annually, upon the taxable property of said county, in addition to the levies authorized for other purposes, a sum sufficient to pay the interest on all the bonds issued under the provisions of this act, and shall also levy a sufficient sum, in addition to all other levies, to provide a sinking fund for the redemption of the same at maturity: *Provided*, that no levy shall be made to provide a sinking fund for the redemption of any of said bonds until at least six years of the time for which said bonds are to run have expired.

SEC. 5. The county of Custer shall never increase its indebtedness beyond the sum of three hundred thousand dollars, until bonds issued under the provisions of this act are paid or liquidated; and any bonds that may be issued, or indebtedness created, greater than said sum of three hundred thousand dollars, shall be absolutely null and void.

SEC. 6. The board of county commissioners of Custer county are hereby authorized to appoint some bank in the city of New York a fiscal agency of said county, and to change the same at any time, and shall require from said fiscal agency a bond in double the amount of moneys of said county which said agency may have in its custody at any time. The bonds issued under the provisions of this

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act may be transferred by presentation for that purpose to [by] the county treasurer to the fiscal agency of said county in New York city; and said fiscal agency is required to keep a duplicate register of said bonds, to indorse and note transfers thereof, and to notify the county treasurer of each transfer of ownership.

SEC. 7. From and after the first day of June, A. D. 1885, it shall not be lawful for the county treasurer of Custer county to redeem any warrants drawn for indebtedness accruing prior to said first day of June, A. D. 1885, excepting with the funds he may then have on hand, or which may be by him received after that date, properly belonging to the revenue of the county previous to said date.

SEC. 8. The board of county commissioners of Custer county shall hereafter levy the taxes required by chapter LIII, as amended, of the fifth division of the revised statutes of Montana, and the taxes required by law to pay the bonded indebtedness of said county, and the interest thereon, and no other tax.

SEC. 9. The board of county commissioners of said county shall not, after the first day of June, A. D. 1885, issue any warrant or warrants, unless there be at the time sufficient money to pay the same, in the county treasury, to the credit of the fund upon which the same is drawn.

SEC. 10. The county of Custer and its officers are hereby exempted from the provisions of any and all acts of this territory in conflict with this act.

SEC. 11. This act shall take effect and be in force from and after its passage.

Approved March 10, 1885.

AN ACT supplementary [to] an act entitled "An act to enable the board of county commissioners of Custer county to fund the county indebtedness," approved March 10, 1885.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That in case the issue of bonds authorized by an act entitled "An act to enable the board of county commissioners of

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Custer county to fund the county indebtedness," approved March 10, 1885, shall not prove sufficient to redeem all legally issued warrants of said county outstanding on the first day of June, 1885, the board of county commissioners of Custer county are further empowered to issue bonds, as provided in the above-mentioned act, for the redemption of such excess of outstanding warrants, together with accrued interest thereon: *Provided*, that nothing in this act shall be construed to authorize the board of county commissioners of Custer county to exceed the amount of indebtedness allowed by the provisions of the above-mentioned act, together with the amount of the bonds authorized by the provisions of this act.

SEC. 2. The board of county commissioners of Custer county are further empowered to levy a sufficient tax on the property of said county, at their regular session in June, 1885, in addition to what may have been already levied, to pay the interest on the bonds issued under the provisions of this act, and the act hereinbefore mentioned, due and payable on the first days of January and July, 1886.

Approved March 12, 1885.

AN ACT to authorize the county of Dawson to issue bonds for certain purposes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The county commissioners of Dawson county are hereby authorized and empowered, in their discretion, to issue the bonds of Dawson county, not to exceed the sum of fifty thousand dollars, under the provisions of an act entitled "An act to authorize county commissioners to issue bonds to redeem outstanding indebtedness," approved March 6, 1883.

SEC. 2. Such bonds, when so issued, may be exchanged by the county commissioners for the outstanding warrants of Dawson county: *Provided*, that such bonds shall not be exchanged for less than the like amount of warrants, dollar for dollar, and if so exchanged, the provisions of sections 3 and 4 of the above-recited act shall not apply to such bonds; otherwise, all of the provisions of such act shall be in full force and effect.

Approved March 12, 1885.

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AN ACT concerning a jail in Meagher county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the board of county commissioners of Meagher county, if in their judgment the public interests will be promoted thereby, may, during the year 1885, construct at Lewiston, in said county, a county jail, not exceeding in value the sum of seven thousand five hundred dollars, of the most approved plan for that sum, with cells and cages of steel, and may pay for the same by warrants on the county treasury of said county of Meagher, drawn as other warrants [are] drawn; and the deputy sheriff may be appointed keeper thereof.

SEC. 2. In the settlement provided by law to take place between the board of county commissioners of the county of Meagher and the county of Fergus, when the same shall be organized, the cost of said jail shall be added in a sum of money which, upon the settlement, shall be found to be due from the said county of Fergus to the said county of Meagher, and thereafter the said jail shall belong to the said county of Fergus.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

AN ACT to enable the county of Lewis and Clarke to erect a court house.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the county commissioners of the county of Lewis and Clarke, of the territory of Montana, are hereby authorized and empowered to build a court house for said county, for the convenient transaction of public business and the preservation of public records; and are hereby authorized and empowered, from time to time to issue, on the faith and credit of said county, coupon bonds to an amount not exceeding, in the aggregate, the sum of one hundred and fifty thousand dollars, or so much thereof as may be necessary to enable them to erect a court house, and provide the same with necessary and proper furniture, fire-proof vaults, and safes,

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which said bonds shall be redeemable at the pleasure of said county after six years from their date, and shall be dated July 1, 1885, and shall become due and payable twenty years from their date.

SEC. 2. Said bonds shall be of the denomination of five hundred dollars and one thousand dollars each, and shall bear interest from the date of their issue at a rate not exceeding six per cent per annum, payable semi-annually. They shall be in such form as the board of county commissioners may direct, and shall be signed by the chairman of said board and the treasurer of said county. They shall also be sealed with the seal of said county, and countersigned by the county clerk. The coupons attached to said bonds shall be signed by the chairman of said board and the county clerk. Each bond issued shall be registered by the county treasurer in a book provided for that purpose, and such registration shall show the date, number, and amount of each bond, and when and to whom issued; and the faith of said county of Lewis and Clarke is hereby pledged for the payment of the principal and interest of said bonds.

SEC. 3. For the purpose of carrying into effect the provisions of this act, the said commissioners are hereby authorized to have engraved or lithographed, at the lowest possible rate, suitable bonds, with coupons attached, and shall pay therefor out of any moneys in the treasury of said county not otherwise appropriated.

SEC. 4. The county commissioners shall, whenever it becomes necessary, advertise for bids for the sale of said bonds, in one or more newspapers published in the cities of Helena and New York, and shall accept the best terms offered, to be paid in lawful money of the United States, but shall not be sold at less than the face thereof.

SEC. 5. The treasurer of said county shall pay in lawful money of the United States, on the first days of July and January in each year, which dates the coupons shall bear, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon which shall show the amount due and the number of the bond to which it belonged. All coupons so paid shall be reported to the county commissioners for cancellation at their first meeting thereafter. Should the holders of said bonds to an amount not less than one thousand dollars give the treasurer notice in writing that they desire the bonds so held by them, and the interest accruing thereon, to be paid in the city of New York, then the said bonds and coupons so held by such person or persons shall be

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payable in the city of New York; otherwise said bonds and coupons shall be payable at the office of said county treasurer.

SEC. 6. The proceeds of the sale of said bonds shall be paid into the county treasury of said county of Lewis and Clarke, to the credit of the court house fund, and shall immediately become available for the purpose of carrying into effect the provisions of this act.

SEC. 7. The county treasurer shall register in a book to be kept for that purpose all bonds redeemed by him, which shall show the amount of the bonds, their numbers and dates, when and to whom issued, and when and from whom redeemed. Said treasurer shall also write across the face of each bond, when paid, in red ink, the word "Redeemed," with the date of such redemption, and shall subscribe his name thereto: he shall also cancel such bonds with a canceling stamp, in the presence of the county commissioners.

SEC. 8. No pay or commission shall be allowed any person for negotiating the sale of the bonds issued under this act. The county commissioners shall superintend the work of constructing said court house, see that all work is done and material is furnished, according to the contracts, plan, and specifications, and shall certify to the correctness of all bills and accounts presented therefor, and shall each receive for his services while actually engaged in such superintendency the sum of five dollars per day, which shall be paid out of said court house fund, on the allowance of the county commissioners, subject to the limitations hereof.

SEC. 9. The said county commissioners shall cause suitable plans and specifications to be made, and shall let contracts for the material, and for the construction of the court house provided for in this act, and may let the several classes of work to be done to separate contractors, as in their judgment shall be for the best interests of the county. The contract or contracts shall be awarded to the lowest responsible bidder or bidders, and said contractor or contractors, to whom bids shall be awarded, shall give bonds, with sureties to be approved by the board of county commissioners, for the completion of their contracts according to the plans and specifications upon which the bid or bids shall be awarded.

SEC. 10. It may and shall be lawful for the board of county commissioners to advertise for plans and specifications for the said court house in some suitable newspaper in this territory, and if they shall so elect, in one suitable newspaper, most likely to reach the attention of architects, in St. Louis, Chicago, or New York, in which

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advertisements they shall designate the amount that the court house is to cost, as herein provided, with such information as to the site and costs of material as they may deem useful in preparing said plans and specifications.

SEC. 11. It shall be the duty of the county commissioners to employ a suitable architect, in no way interested as contractor or furnisher of materials, who, under said board of county commissioners, shall supervise and direct the construction of said court house, according to the plans and specifications adopted; and they may discharge him, and employ another, whenever in their judgment the interests of the public require it.

SEC. 12. It may and shall be lawful for the said board of county commissioners, if in their judgment the tract of land upon which the court house now stands is not sufficiently spacious, to condemn adjacent or other lands, and to occupy a portion of the streets surrounding the present court house with said building: *Provided*, that sufficient space shall be condemned to constitute a thoroughfare around the said court house for the public use: *Provided further*, that the county commissioners are hereby authorized, and it shall be lawful for them to purchase such lands as they in their good judgment may deem proper.

SEC. 13. The said court house shall be constructed of brick, and trimmed with stone, unless in the judgment of the board of county commissioners and the supervising architect, or a majority of them, some other material will be better; and said building shall be constructed in every respect in a first-class manner for a court house of the value prescribed in this act, and according to the most approved plans therefor.

SEC. 14. No money shall be paid any county commissioner for services rendered by him in supervising and attending to the construction of said court house, and other services in connection therewith, exceeding five hundred dollars per annum, which may be allowed; nor shall any money be allowed therefor until the governor, secretary, and one of the justices of the supreme court shall be satisfied that the services for which compensation is claimed have been actually rendered, and that the prices charged therefor are reasonable, and are within the limitations prescribed by this act, nor until said governor, secretary, and justice shall have certified to the amount in writing.

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SEC. 15. It may and shall be lawful for the said board of county commissioners to temporarily lease rooms or buildings for the public officers of the county, if the same shall be required, while the new court house is in process of construction, including a court room and jury rooms for the courts held in Lewis and Clarke county.

SEC. 16. This act shall take effect and be in force from and after the sixteenth day of March, A. D. 1885.

Approved March 12, 1885.

AN ACT to ratify and validate certain bonds issued by the county of Choteau to erect a court house and jail.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. All those certain coupon bonds issued and sold by the board of county commissioners of Choteau county, by virtue of and pursuant to the authority conferred in that certain act entitled "An act to enable the county of Choteau to erect a court house," approved March 3, 1883, and in that certain act entitled "An act supplemental to an act entitled 'An act to enable the county of Choteau to erect a jail,' approved February 22, A. D. 1881," approved March 2, 1883, shall not be invalid by reason of any neglect, failure, or omission to advertise and give notice of the time and place of sale of any such bonds, as required by law, and all such bonds are hereby ratified and declared valid.

Approved February 5, 1885.

AN ACT to enable the county of Choteau to pay a balance due for the erection of a court house.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The board of county commissioners of Choteau county is hereby authorized and empowered to issue, on the credit of said county, coupon bonds to an amount not exceeding the sum of eight

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thousand five hundred dollars, or so much thereof as may be necessary, to enable said board to pay any balance due upon the contract price for the erection and completion of the court house in said county, and to deliver such bonds to any person or persons to whom any such balance may be due and owing by said county in settlement of any such indebtedness, which said bonds shall be dated on the day of their issue, shall be redeemable at the pleasure of said county after ten years, and shall become due and payable after fifteen years from the date of their issue.

SEC. 2. Said bonds shall be of the denominations of one hundred and five hundred dollars each, and shall bear interest at a rate not exceeding seven per cent per annum. Said bonds, and the coupons thereto attached, shall be signed by the chairman of the board of county commissioners and the clerk of said county, and shall be in such form as said board of commissioners may direct. Each bond issued shall, at the date of its issue, be registered by the county clerk on the left hand pages of a book prepared for that purpose, which said book shall show on the left hand pages the number, date, and amount of each bond, and to whom issued; and on the right hand pages, the date of redemption, the amount of the bond redeemed, the amount of interest paid thereon, and the name of the person from whom redeemed.

SEC. 3. For the purpose of carrying into effect the provisions of this act the said board of county commissioners is hereby authorized to cause to be engraved or lithographed, at the lowest practicable rates, suitable blank bonds, with coupons attached, and shall pay therefor out of any moneys in the treasury of said county, not otherwise appropriated.

SEC. 4. The treasurer of said county shall pay in lawful money of the United States, semi-annually, on the first days of January and July of each year, the interest due on said bonds, upon the presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it belonged. All coupons so paid shall be returned to the board of county commissioners at the first regular meeting thereof after such payment. Should the holders of such bonds to an amount not less than one thousand dollars give the treasurer notice in writing that they desire the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in the city of New York, then the said bonds and coupons so held by such person or persons shall be payable at such bank in the city of New York.

SEC. 5. The county clerk shall enter on the right hand pages of the book provided for in section 2 of this act, and opposite to its

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appropriate number, all bonds returned to the board of county commissioners, redeemed, and such entry shall show the amount of each bond redeemed, its number, date of redemption, the amount of interest paid thereon, and from whom redeemed.

SEC. 6. The county clerk shall be entitled to receive the sum of fifty cents for each bond issued, as full compensation for all services required of him by this act.

SEC. 7. The faith of Choteau county is solemnly pledged for the payment of the interest and the redemption of the principal of every bond which shall be issued under the provisions of this act.

SEC. 8. This act shall take effect and be in force from and after its passage.

Approved March 10, 1885.

AN ACT to enable the county of Jefferson to erect a jail.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the board of county commissioners of the county of Jefferson be and they are hereby authorized and directed to issue, on the credit of said county, coupon bonds to the amount of seven thousand dollars, or so much thereof as may be necessary to enable said board to erect and finish a jail at the county seat of said county, which said bonds shall be dated on the day of their issue, and shall be redeemable at the pleasure of said county after ten years, and due and payable twenty years from the date thereof.

SEC. 2. The bonds above provided for shall be of the denominations of one hundred and five hundred dollars each, and shall bear interest at the rate of seven per cent per annum. Said bonds, with the coupons thereto attached, shall be signed by the chairman of the board of county commissioners and the treasurer of said county, and countersigned by the county clerk, and sealed with the county seal, and shall be in such form as shall be prescribed by said board of county commissioners. Each bond issued shall, at the date of its issue, be registered by the county treasurer in a book provided for such purpose, which said entry shall show the number, date, and amount of each bond, and to whom issued, the date of redemption,

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the amount of the bond redeemed, the amount of interest paid upon the same, and the person from whom the redemption was made.

SEC. 3. For the purpose of carrying into effect the provisions of this act, the said board of county commissioners are hereby authorized and directed to cause to be engraved or lithographed, at the lowest practicable rate, suitable blank bonds, with coupons attached, and shall pay therefor out of any moneys in the treasury of said county not otherwise appropriated.

SEC. 4. The said board of county commissioners shall, at the earliest practicable period, procure the blank bonds and coupons aforesaid, and order a sale thereof, which shall be at private [sale] or public auction, for cash, at not less than ninety-eight cents on the dollar of their face value, at the court house of the county seat of said county. Notice of the time and place of such sale, describing said coupon bonds to be sold, shall be given by advertisement in two newspapers published in Montana territory, one of which shall be in Jefferson county, if any newspaper be published in said county, and also one in the city of New York, state of New York, at least once a week, for four consecutive weeks prior to the day fixed for said sale, the last insertion thereof to be at least ten days before such sale.

SEC. 5. The proceeds of the sale of said bonds shall be paid into the county treasury of said county to the credit of the jail fund, and shall immediately thereafter become available for the purpose of erecting and finishing said jail, and shall be drawn from time to time and in such sum or sums as may be necessary to carry out and fulfill any contract or contracts made by said board of county commissioners, in and about the erection and finishing said jail. Bids for such contract or contracts shall be advertised and let upon such plans and specifications and to such person or persons as to said board of county commissioners shall seem to the best interest of said county.

SEC. 6. The treasurer of said county shall pay the interest on said bonds semi-annually, on the first day of January and first day of July of each year, upon the presentation at his office of the proper coupons, which shall show the amount due and number of the bond to which the same belonged. All coupons so paid shall be duly entered by said treasurer, and returned to the board of county commissioners at its next regular meeting thereafter. Should the holder or holders of said bonds, or any portion thereof amounting to the sum of one thousand dollars, give notice to said treasurer in

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writing that he or they desire said bonds and interest thereon, or the portion thereof so held by him or them, paid at some bank, to be designated in said notice, in the city of New York, and state of New York, then the said bonds and coupons shall be payable at the bank so designated; and said treasurer shall deposit therein the interest necessary to take up said coupons, and, when so taken up, shall return the same to the said board of county commissioners as hereinbefore provided.

SEC. 7. The county treasurer shall, upon the receipt of the purchase money therefor, execute and deliver to the purchaser or purchasers the coupon bonds so purchased by him or them. And the county treasurer shall receive as a compensation for receiving, keeping, and disbursing the moneys arising from said sale the sum of one-half of one per cent of the amount in full for his services; and said county clerk shall receive the sum of fifty cents for each bond issued and entered by him, which said sum shall be in full compensation for all services rendered by him under the provisions of this act.

SEC. 8. This act to take effect and be in force from and after its passage.

Approved March 10, 1885.

AN ACT concerning the meeting of the county commissioners of Yellowstone county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The regular meeting of the board of county commissioners, in and for the county of Yellowstone, for March, 1885, may and shall be held on the 23rd day of March, 1885, instead of as now provided by law; but thereafter, all regular meetings of said board shall be held as provided by the general laws of the territory of Montana.

Approved February 28, 1885.

AN ACT to apply certain money to the payment of the bonds of Deer Lodge and Silver Bow counties.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the boards of commissioners of the counties of Deer Lodge and Silver Bow are hereby authorized and empowered

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to use and apply any surplus money now or which may hereafter be in the general fund of said counties to the payment of the outstanding bonded indebtedness of said counties, respectively, to the holders of such said bonds as may be willing to surrender the same before their maturity.

SEC. 2. That whenever said commissioners shall deem it expedient so to do, and there shall be a surplus of money in the general fund of said county over and above what may be required for the purpose for which it was created, to the amount of one thousand dollars, said commissioners shall give notice in a newspaper published in said county, for four weeks, of such fact; and at any time thereafter, the county treasurer shall pay such surplus fund, to such an amount as may be ordered at any meeting of said board, to such persons who are willing to surrender said bonds before their maturity, and preference shall be given, in the order of payment, in the order in which they fall due.

Approved March 12, 1885.

AN ACT to incorporate the city of Billings.

Be it enacted by the Legislative Assembly of the Territory of Montana:

ARTICLE I.—BOUNDARIES.

SEC. 1. That the inhabitants in [of] the city of Billings, in Yellowstone county, territory of Montana, be and they are hereby constituted a body politic and corporate, by the name and style of "The City of Billings," and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all courts of law and equity, and may have and use a common seal, and alter the same at pleasure.

SEC. 2. That the following described territory shall, for the present, compose the said city, to-wit: The south half of section 33, township 1 north, range 26 east, and the south-east quarter of the south-east quarter of section 32, township 1 north, range 26 east, and section 3, in township 1 south, range 26 east, containing an area of 1,000 acres.

SEC. 3. Whenever any additional tract of land adjoining the city of Billings shall, after the passage of this act, be laid off into town

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lots, and duly recorded as may be required by law, the same may by the city council be annexed and become part of the city of Billings.

SEC. 4. The inhabitants of said city, by the name and style aforesaid, shall have power to purchase, receive and hold property, both real and personal, or mixed, either in or beyond the city for burial grounds, and for other purposes, for the use of the inhabitants of said city.

ARTICLE II.—CITY COUNCIL.

SEC. 1. There shall be a city council, to consist of a mayor and a board of aldermen.

SEC. 2. The board of aldermen shall consist of two members from each ward, to be chosen by the qualified voters, for two years, and until others shall be legally qualified.

SEC. 3. No person shall be an alderman, unless at the time of his election he shall be a tax paying real estate holder, and have resided within the limits of the city one year immediately preceding election, and shall have the requisite qualifications to vote for members of the legislature, and be a resident of the ward for which he is elected.

SEC. 4. If any alderman, after his election, remove from the ward for which he was elected, his office shall be declared vacant; the mayor and aldermen shall serve without any compensation whatever until the population of the city may be 4,000, when the mayor shall receive such compensation as the city council may determine.

SEC. 5. At the first meeting of the city council the aldermen shall be divided by lot into two classes. The seats of those of the first class shall be vacated at the expiration of the first year; and of the second class at the expiration of the second year; so that one-half of the board shall be elected annually.

SEC. 6. The city council shall judge of the qualifications and returns of their own members, and shall determine all contested elections under this act.

SEC. 7. A majority of the city council shall constitute a quorum to do business, but a smaller number may adjourn from day to day,

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and compel the attendance of absent members, under such penalties as may be prescribed by ordinance.

SEC. 8. The city council shall have the power to determine the rules of its proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members elected, expel any member.

SEC. 9. No aldermen shall be appointed to any office under the authority of the city, nor for one year after the termination of his office.

SEC. 10. All vacancies that shall occur in the board of aldermen shall be filled by election.

SEC. 11. The mayor and aldermen, before entering upon the duties of their respective offices, shall each take and subscribe an oath or make affirmation that he will support the constitution of the United States and the organic act of this territory, and that he will well and truly perform the duties of his office to the best of his skill and ability.

SEC. 12. Whenever there shall be a tie in the election of aldermen the judges of the election shall certify the fact to the mayor, who shall determine the same by lot, in such manner as shall be prescribed by ordinance.

SEC. 13. There shall be twelve stated meetings of the city council in each year, at such times and places as may be prescribed by the city council.

ARTICLE III.—EXECUTIVE OFFICERS.

SEC. 1. The chief executive officer shall be a mayor, whose name appears upon the tax list in said city, and who shall be elected by the qualified voters of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

SEC. 2. No person shall be eligible to the office of mayor who shall not have been a resident of the city for one year next preceding his election, or who shall be under twenty-five years of age, or who shall not, at the time of his election, be an elector.

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SEC. 3. If any mayor, during the term for which he shall have been elected, remove from the city, or shall be absent from the city for the space of four months, his office shall be vacated.

SEC. 4. When two or more persons shall have an equal number of votes for mayor, the judges of election shall certify the same to the city council, who shall proceed to determine the same by lot, in such manner as may be provided by ordinance.

SEC. 5. Whenever any election for mayor shall be contested, the city council shall determine the same as may be prescribed by ordinance.

SEC. 6. Whenever any vacancy shall happen in the office of mayor, it shall be filled by election.

ARTICLE IV.

SEC. 1. On the first Monday in April, A. D. 1885, an election shall be held in said city for one mayor for the city and two aldermen for each ward, and forever thereafter, on the first Monday in April, of each year, there shall be an election of one mayor for said city and one alderman for each ward.

SEC. 2. All citizens of the United States, and those who have declared their intention to become such, of twenty-one years of age, who are actual tax payers, either as firms, individuals, or stockholders in incorporations, the same to be evidenced either by their names being on the county tax list for the preceding year, or by the production of their receipts therefor, and who shall have been actual residents of said city six months preceding said election, shall be entitled to vote for city officers and the adoption of the charter: *Provided*, that said voters shall give their votes in the ward in which they respectively reside.

ARTICLE V.—POWERS OF THE CITY COUNCIL.

SEC. 1. The city council shall have power and authority to levy and collect ad valorem taxes for city purposes upon taxable property, real, mixed, and personal, except as herein excepted, within the limits of the city, not exceeding three-tenths of one per cent per annum upon the assessed valuation thereof, and may enforce the payment of the same in any manner that may be prescribed by ordinance, not repugnant to the constitution of the United States, or the organic act of this territory.

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SEC. 2. The mayor shall nominate and, with the consent of the council, appoint all officers, except city attorney, who shall act as city clerk, city assessor, who shall act as city treasurer and collector, and city marshal, who shall be elected at the first general city election, and every year thereafter, and whose term of office shall be for one year, and until their successors are elected and qualified.

SEC. 3. The city council shall have power to require of all officers, appointed or elected in pursuance of this act, bonds, with penalty and security, for the faithful performance of their respective duties, as may be deemed expedient, also require of all officers appointed or elected, as aforesaid, to take such oaths or make such affirmation as the city council may prescribe for the faithful performance of the duties of their respective offices, before entering upon the discharge of the same.

SEC. 4. To appropriate money and funds for the payment of the expenses of the city.

SEC. 5. To make regulations to prevent the introduction of contagious diseases into the city, to make quarantine laws for that purpose, and to enforce the same within five miles of the city, to establish hospitals and make regulations for the government of the same.

SEC. 6. To make regulations to secure the general health of the inhabitants; to declare what shall be a nuisance, and to prevent and remove the same.

SEC. 7. To provide the city with water, erect hydrants and pumps, build cisterns and dig wells in the streets for the supply of engines and buckets.

SEC. 8. To open, alter, abolish, widen, extend, establish, grade, pave, or otherwise improve and keep in repair streets, avenues, lanes, alleys, sidewalks, drains, and sewers.

SEC. 9. To establish, erect, and keep in repair bridges.

SEC. 10. To divide the city into wards, alter the boundaries thereof, and create additional wards, as the occasion may require.

SEC. 11. To establish, support, and regulate night watches.

SEC. 12. To provide for lighting the streets, and to erect lamp posts.

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SEC. 13. To provide for all needful buildings for the use of the city.

SEC. 14. To provide for the enclosing, improving, and regulating all public grounds belonging to the city, to erect market houses, to establish markets and market places, and to provide for the government and regulation thereof.

SEC. 15. It shall have the power to provide for the prevention and extinguishment of fires; to organize and establish fire companies, and, at discretion, prohibit or regulate the erection of wooden buildings.

SEC. 16. To regulate the building and fixing of chimneys, and to fix the flues thereof.

SEC. 17. To regulate the storage of powder, tar, pitch and rosin, coal oil, and other combustible or dangerous materials.

SEC. 18. To regulate parapets, walls, and partition fences, and restrain cattle, hogs, horses, sheep, and dogs, or other animals, from running at large, and prohibit reckless driving or riding on the streets.

SEC. 19. To establish standard weights and measures, and regulate the weights and measures to be used in the city in all cases not otherwise provided for by law, and to order all laws on the subject to be enforced, and to fix and enforce payment of fines for non-compliance with any such order.

SEC. 20. To provide for taking the enumeration of the city.

SEC. 21. To regulate the election of city officers, and to provide for the removing from office any person holding an office created by ordinance.

SEC. 22. To fix the compensation of city policemen, who shall be night watchmen: *Provided*, that such compensation shall not exceed the sum paid by law in this territory to other officers for like services; and regulate fees for jurors, witnesses and others for services rendered under this act, or any ordinance made in pursuance thereof.

SEC. 23. To regulate the police of the city; to enforce fines, forfeitures, and penalties for the breach of any ordinance, and to provide for the receiving and appropriation of such fines and forfeitures

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and the enforcement of such penalties; and all moneys collected under or by authority of any city ordinance shall be deemed to be taken to belong to said city for the general use and benefit of the inhabitants thereof, for the purpose herein provided.

SEC. 24. The city council shall have power to make all ordinances which shall be necessary and proper for carrying into execution the powers specified in this act, so that such ordinances incur no indebtedness whatever, except as provided by this instrument, and necessitate no levying of taxes exceeding three mills on each dollar, except as provided in sections seven and eight, in article seven, and be not repugnant to nor inconsistent with the constitution of the United States or the organic act of this territory: *Provided*, that no ordinance shall take effect until it has first been presented to the mayor for his approval. If he approve, he shall sign it; but if not, he shall return it to the council, or to the city clerk, if the council be not in session, with his objections thereto, in writing. The council shall, at its next meeting after the return of any such ordinance, cause the objections of the mayor thereto to be spread at length upon its journal, and shall proceed to reconsider it. If, after such reconsideration, three-fourths of the council shall vote to pass such ordinance, the same shall take effect and be in force, the mayor's objections thereto notwithstanding; but in all such cases the vote shall be by yeas and nays, and the names of the persons voting for or against the ordinance shall be entered upon the journal. If any ordinance is not returned by the mayor, or filed with the city clerk within two days, Sundays excluded, after he shall have received it, the said ordinance shall take effect and be in force in like manner as if he had signed it. If an ordinance contain several appropriations of money the mayor may approve as to some of the items thereof, and disapprove as to others.

SEC. 25. To license, tax, and regulate auctioneers, merchants, peddlers, retailers, taverns, hotels, bakeries, restaurants, drinking saloons, billiard halls, hawkers, brokers, pawnbrokers, gambling houses, bankers, assay offices, professional men, barber shops, livery stables, wash houses or laundries, insurance agencies, photograph galleries, and theatrical and other exhibitions, and other amusements, and all branches of business: *Provided*, no license levied or imposed by the city council shall exceed in amount one-fourth of the license required to be paid by the statutes of this territory for like business.

SEC. 26. The city shall have no power to incur or make any city indebtedness, for any purpose whatever, to exceed the sum of $5,000:

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but if the sum of any indebtedness shall exceed $5,000 the question of incurrence thereof shall be submitted to the duly qualified voters of said city, as provided in sections 7 and 8 of article 7 hereof.

SEC. 27. The style of the ordinances shall be "Be it ordained by the city council of the city of Billings."

SEC. 28. All ordinances of the city council shall, within ten days after they have been passed, be posted in three public places in said city, and shall not be in force until they have been posted as aforesaid.

SEC. 29. All ordinances of the city council may be proven by the seal of the corporation and when printed in book form, or pamphlet form, and purported to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

ARTICLE VI.—THE MAYOR.

SEC. 1. The mayor shall preside at all meetings of the city council, and, in case of a tie, he shall have the casting vote, and in no other; in case of the non-attendance of the mayor at any meeting, the board of aldermen shall appoint one of their number as chairman, who shall preside at the meeting, but shall not thereby lose his right to vote on any question before the board; and in the discretion of the city council during the temporary absence or incapacity of the mayor, it may appoint one of its members to act as mayor *pro tem* during the *interim*, with all the powers of mayor, and subject to all his limitations provided by this act.

SEC. 2. The mayor, or any two aldermen, may call a special meeting of the city council, the city clerk, on their requisition, giving reasonable notice in writing thereof to all members of the city council present in the city.

SEC. 3. The mayor shall at all times be vigilant and active in enforcing the laws and ordinances of the government of the city. He shall inspect the conduct of all subordinate officers of said city, and cause negligence or positive violation to be prosecuted and punished. He shall from time to time communicate to the aldermen such information, and recommend such measures, as in his opinion may tend to the improvement of the finances, police, the health, security, and comfort of the city.

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SEC. 4. He is hereby authorized to call on every male citizen of said city, over the age of eighteen years, to aid in the enforcement of the laws and ordinances, and, in case of riots, to call out the militia to aid in suppressing the same, or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the city, or of carrying into effect any law or ordinance; and any person who shall not obey such call shall forfeit to said city a fine not exceeding twenty-five dollars.

SEC. 5. He shall have power, whenever he shall deem it necessary, to require of any of the officers of said city an exhibit of his books and papers.

SEC. 6. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act.

SEC. 7. He shall also have such power as may be vested in him by ordinance of the city in and over all places within five miles of the boundaries of the city, for the purpose of enforcing the health and quarantine ordinances and regulations thereof.

SEC. 8. In case the mayor shall be guilty of a palpable omission of duty, or shall willfully and corruptly be guilty of oppression, malconduct, or partiality in the discharge of the duties of his office, he shall be liable to be indicted in the district court of the proper county, and, on conviction, he shall be fined not more than five hundred dollars, and the court shall have the power, upon the recommendation of the jury, to add to the judgment of the court that he be removed from office, and forever thereafter be disqualified from holding office under this act, or any ordinances of said city.

ARTICLE VII.—MISCELLANEOUS PROVISIONS.

SEC. 1. The city council shall have the power, for the purpose of keeping the streets, lanes, avenues, and alleys in repair, to require every able-bodied male inhabitant in said city, over the age of twenty-one and under forty-five years, to labor on said streets, lanes, avenues and alleys, not exceeding one day in each and every year; and every person failing to perform such labor, when duly notified by the street commissioners, shall forfeit and pay two dollars for said day so neglected or refused to be used in improving the public streets.

SEC. 2. The members of the city council and firemen shall, during their term of office as such, be exempt from working out any

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road or street tax, and shall likewise be exempt from serving in the militia of the territory, or on any jury.

SEC. 3. The council shall have power to provide for the punishment of offenders by imprisonment and hard labor in all cases where such offenders shall fail or refuse to pay the fine and forfeiture which may be recovered against them according to the laws of this territory.

SEC. 4. The city council shall have power, by ordinance, subject to the restrictions of sections 5 and 6 of this article, to levy and collect a special tax on holders of lots on any street, lane, avenue, or alley, according to their respective fronts, for the purpose of paving, grading, or planking sidewalks, and lighting such street, lane, avenue, or alley: *Provided*, such tax shall not exceed the actual cost of such sidewalks and lighting, respectively, which tax shall be collected in the same manner as other city taxes.

SEC. 5. That no special tax for the purposes specified in section 4 shall be levied on the holders of any lots in any block situated within the limits of such portion of the south-east quarter of section 32, township 1 north, range 26 east, as may now or hereafter be included within the corporate limits of the city, until the improvement for which such tax is proposed to be levied be first petitioned for by the holders of at least two-thirds of such lots.

SEC. 6. That no such special tax shall be levied on the holders of any lots in any block not specified in section 5, unless such block fronts on Minnesota or Montana avenue, until the owners of at least two-thirds of such lots as are owned by residents of the city, and upon which lots in said block such special tax is proposed to be levied, first petition for said levy.

SEC. 7. That no levy or assessment of taxes or incurrence of a debt beyond $500, not heretofore provided for, shall be made by said city council, except upon a vote of two-thirds of the members thereof, and every levy of taxes or issue of bonds for each purpose shall be set forth in a section of an ordinance by itself.

SEC. 8. After the passage of said ordinance by such vote the same shall be published in at least one city newspaper for at least one week if daily, and two weeks if weekly, together with a notice that the same will be submitted to a vote of the tax-paying real estate holders of said city, on a day and at a place in each of the wards to be named, which election shall be conducted as is provided

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in other cases, and the ballots shall be "For section (——) of an ordinance entitled (giving title)," or "Against section (——) of an ordinance entitled (giving title);" and if two-thirds of said voters shall approve the same the said ordinance shall be in full force; but if not approved the same shall be void.

SEC. 9. The city council shall provide the detailed method of conducting such elections, not inconsistent with this act, but nothing in this and the two preceding sections shall affect the passage of ordinances levying taxes for the maintenance of the city police (not exceeding two in number), the payment of the night watchmen (not exceeding two in number), paraphernalia for extinguishing fires, cleaning streets, enclosing and protecting cemeteries, maintaining and keeping in repair the property of the fire department, and necessary notices in all of the city newspapers.

SEC. 10. That the city shall not be liable for any costs in any suit prosecuted in its name in its own courts, nor shall any fees taxed exceed in amount the items of fees allowed for similar services to other officers in this territory.

SEC. 11. All fines and forfeitures collected for offenses committed, or penalties incurred, within the incorporation limits of the city of Billings, shall be paid into the treasury of the said city by the officer collecting the same, with details of sources and on what account paid out.

SEC. 12. The city council shall cause to be published, quarterly, in all newspapers of said city, a general statement of the finances of said city, showing in condensed form what moneys have been received, and from what source, and the amount and purpose for which moneys have been paid out or expended. The books of the city assessor and treasurer shall be open, at all proper hours, to the inspection of any tax payer of said city, or other person.

SEC. 13. All suits, actions, and prosecutions instituted, commenced, or brought by the corporation hereby created shall be prosecuted in the name of the city of Billings.

SEC. 14. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, to the district court, and every such appeal shall be granted in the same manner, and with like effect, as appeals are taken from and granted from justices of the peace under the laws of this territory.

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SEC. 15. No mayor or alderman of said city shall, during the period for which he is elected, be directly or indirectly pecuniarily interested in any contract let or to be let under the authority of said city, or in any payment to be made thereon, and if any such person shall violate the provisions of this section he shall be deemed guilty of a misdemeanor under the laws of this territory, and shall be prosecuted therefor in the district court, and, on conviction thereof, shall be fined not less than two hundred and fifty dollars, nor more than six hundred dollars, or imprisonment three months, or both such fine and imprisonment; and in all contracts involving the expenditure of one hundred dollars or more the city council shall advertise the same, with specifications, for a period to be prescribed by ordinance, and award the same to the lowest responsible bidder, and they shall advertise all contracts.

SEC. 16. This act is declared to be a public act, and may be read in evidence in all courts of law and equity within this territory without proof.

SEC. 17. Whenever the mayor shall absent himself from the city, or resign, or die, or his office shall otherwise become vacated, the board of aldermen shall immediately proceed to elect one of their number president, who shall be mayor *pro tem*, until the office shall be filled by election as herein provided, and any vacancy in elective offices occurring sixty days prior to any regular election shall be filled within twenty days from the date of occurrence of said vacancy by special election to be called as herein provided, the officer so elected to serve until the next regular election.

SEC. 18. The city marshal and the constables within said city of Billings shall be authorized to have power to execute anywhere within the county wherein said city may be located all processes issued by the police magistrate of said city, or other city magistrate within said city, and the said marshal shall have power to do all the acts that a constable may lawfully do, and shall receive the same fees that are allowed to constables in similar cases, and shall give bonds as constables are required by law to give.

SEC. 19. All actions brought to recover any penalty or forfeiture under this act, or any ordinance, by-law, or police regulation made in pursuance thereof, shall be brought in the corporate name of said city.

SEC. 20. In all prosecutions for any violation of any ordinance, by-law, or other regulation, the first process shall be by summons,

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unless oath or affirmation shall be made for a warrant as in other cases.

SEC. 21. Upon rendition of judgment, the officer rendering such judgment may require the defendant to be confined in jail for a term not exceeding three months, and every person so committed shall be confined one day for each five dollars of such judgment and costs, unless he pay the same.

SEC. 22. The police magistrate shall have jurisdiction in all cases of violation of the city ordinances, and shall have the same jurisdiction in all civil and criminal proceedings as is now or shall hereafter be conferred upon other justices of the peace of this territory, and, in all courts of this territory, said police magistrate shall be held to be and he is hereby constituted a justice of the peace; but no change of venue shall be allowed from said police magistrate to any justice of the peace for the hearing or determination of any case when proceedings shall be commenced against any person or persons for the violation of any city ordinance.

SEC. 23. The duties of all officers mentioned in this act, not herein prescribed, shall be prescribed by ordinance.

SEC. 24. There shall be a city attorney, who shall also act as city clerk, city assessor, who shall also act as city treasurer and collector, and city marshal, elected as hereinbefore provided. The police magistrate shall be a justice of the peace in said county, and he shall have the exclusive jurisdiction of all offenses against the ordinances of the city. The city attorney, city assessor, and city marshal shall severally discharge the duties usually pertaining to said offices, respectively, and the manner thereof may be prescribed by ordinance.

SEC. 25. This charter shall be submitted to the qualified voters of the city of Billings on or before the first Monday in April, 1885, at one convenient place therein, by directions of the commissioners appointed in this act. The ballots shall have printed or written thereon: "For the Charter," or "Against the Charter," and if a majority of the votes so cast at this election shall be in favor of the charter, then this act shall be in full force and effect; but if a majority of the votes so cast shall be against the charter, then this act shall remain suspended, unless thereafter enforced as herein set forth.

SEC. 26. Peter Larson, Albert L. Babcock, and Sidney H. Irwin, Louis A. Fenske, and John W. Ramsey are hereby constituted and

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appointed to act as commissioners, and to serve in such capacity until the first board of aldermen of said city shall be elected and duly qualified. Such commissioners, or any three of them, shall, if a majority of the electors of the said city vote in favor of this charter, within twenty days after its acceptance as aforesaid, proceed to lay out the territory embraced within the city limits of said city of Billings into three wards, and fix the boundaries of the same; and shall also provide for holding the first election herein appointed in the several wards of said city; shall fix the place for holding said election in each of said wards; shall appoint the persons to act as judges of election in each of said wards, who shall be sworn, and whose places may be filled, in case they do not serve, as provided by law in other elections. Said election shall be held and returns thereof made and certified in all respects as provided by law for the election of members of the legislative assembly. A copy of said returns of said election shall be then immediately delivered to the commissioners, who shall canvass the same within three days from the time received; and the persons receiving the highest number of votes for the several officers to be elected under this act, and the aldermen of each ward, shall be declared by said commissioners, or any four of them, duly elected to said offices. If two or more persons shall, at said election, receive the same number of votes for one of said offices, the commissioners shall determine the same by lot. Thereafter, on the first Monday in April, each annual election shall take place.

SEC. 27. In case of rejection of this charter by a majority of the voters at the first election, or at any time or times thereafter when sixty of the qualified voters of said city shall petition said commissioners for a re-submission of said charter, then it shall be the duty of said commissioners to again submit the adoption or rejection of this charter to a vote of the qualified voters of said city, and if upon said second submission a majority shall adopt this charter, then the same shall be in full force and effect from the time of its adoption. Said re-submission shall be conducted as in section 26 provided, and whenever said commissioners, or a majority of them present in said city, shall be of the opinion that an incorporation is desired they may re-submit said charter so many times as in their judgment shall be proper for adoption or rejection, in the manner in said section provided.

SEC. 28. And in case of occurrence of any vacancy, from any cause whatever, in said board of commissioners, the remaining number of members shall appoint others to fill the said vacancy or vacancies; and shall so do that the provisions of this act shall not fail at any time.

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SEC. 29. This act shall take effect and be in force from and after its passage.

Approved March 10, 1885.

AN ACT to incorporate the city of Dillon.

Be it enacted by the Legislative Assembly of the Territory of Montana:

ARTICLE I.—OF BOUNDARIES.

SEC. 1. That the inhabitants of the town of Dillon, in Beaverhead county, and territory of Montana, be and are hereby constituted a body politic and corporate, by the name and style of the city of Dillon, and by that name shall have perpetual succession; and the inhabitants of said city, under the name and style of the city of Dillon, may sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity and in all actions whatsoever; and may keep and use a common seal, and alter the same at pleasure.

SEC. 2. All that territory embraced within the following limits, to-wit: Beginning at the point of intersection of the center of Bannack street with the center of the main track of the Utah and Northern railroad; and running thence with said railroad south-westerly, one-half of a mile, to a point in the center of said railroad track; thence at right angle with the main railroad track, and in a south-easterly direction, one-half mile; thence on a line parallel with the Utah and Northern railroad, in a north-easterly direction, one mile; thence north-westerly, and at right angle with said railroad, one mile; thence south-westerly, and parallel with said road where it passes through the city of Dillon, one mile; thence south-easterly, and at right angle with said railroad, one-half a mile, to the center of said railroad, the place of commencing of said boundary.

SEC. 3. Whenever any tract of land adjoining said city of Dillon shall be laid off into town lots, and duly recorded, as may be required by law, the same shall be annexed to and become a part of the city of Dillon.

SEC. 4. The inhabitants of the city of Dillon, in the name of the city of Dillon, shall have power to purchase, hold, and receive property, both real, personal, and mixed, either in or beyond the limits

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of said city, for burial grounds, and for other purposes, for the use of the inhabitants of said city.

ARTICLE II.—OF THE CITY COUNCIL.

SEC. 1. There shall be a city council, to consist of a mayor and board of aldermen.

SEC. 2. The board of aldermen shall consist of two members from each ward, to be chosen by the qualified voters, for two years, and until their successors shall be elected or appointed and qualified.

SEC. 3. No person shall be an alderman, unless at the time of his election he shall have resided within the limits of the city six months next preceding his election, and shall have the requisite qualifications to vote for members of the legislature, be a resident of the ward for which he is elected, and a citizen of the United States.

SEC. 4. If any alderman, after his election, die, resign, or remove from the ward for which he was elected, or fail to qualify within 30 days after his election, his office shall be declared vacant.

SEC. 5. The mayor and alderman shall serve without compensation from the city government or funds of the city, until there shall be three thousand inhabitants in said city; and when the population shall exceed three thousand the mayor shall receive such compensation as the city council shall determine.

SEC. 6. At the first meeting of the city council the aldermen shall be divided by lot into two classes. The seats of those of the first class shall [become] vacant at the expiration of one year from the first election; and the seats of the second class at the expiration of two years; so that one-half shall be elected annually.

SEC. 7. The city council shall be the judge of the qualifications and returns of their [its] own members, and shall decide all contested elections under this act.

SEC. 8. A majority of the city council shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, under such penalties as may be prescribed by ordinance.

SEC. 9. The city council shall have power to make the rules of its proceedings, punish members for disorderly conduct,

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and, with a concurrence of two-thirds of the members elect, expel a member.

SEC. 10. The city council shall keep a journal of its proceedings, and, from time to time, publish the same; and the yeas and nays, when demanded by any member present, shall be entered upon the journal.

SEC. 11. No alderman shall be appointed to any office under the authority of the city which shall have been created, or the emoluments of which shall have been increased, during the time for which he shall have been elected.

SEC. 12. All vacancies that may occur in the offices of the city government shall be filled by appointment by the mayor, and confirmed by the council, until the next regular election, except the office of police justice, which shall only be filled by an election called for that purpose.

SEC. 13. The mayor and aldermen, before entering upon the duties of their offices respectively, shall take and subscribe an oath to support the constitution of the United States and the organic act of the territory, and that he will well and truly perform the duties of his office to the best of his skill and ability.

SEC. 14. Whenever there shall be a tie in the election of an alderman the judges of election shall certify the fact to the mayor, who shall determine the same by lot, in such manner as may be prescribed by ordinance.

SEC. 15. There shall be at least twelve stated meetings of the city council each year, at such times and places as may be prescribed by the city council.

ARTICLE III.—OF THE EXECUTIVE OFFICE.

SEC. 1. The chief executive officer shall be a mayor, who shall be elected by the qualified electors of the city, who shall hold his office for the period of one year, and until his successor shall be elected or appointed and qualify: *Provided*, that if said office shall become vacant by death, resignation, or removal from the city, the city council shall appoint a suitable person to fill out the unexpired term of such mayor.

SEC. 2. No person shall be eligible to the office of mayor who has not resided in said city for one year next preceding his election,

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or appointment, or who shall be under twenty-five years of age, and who shall not, at the time of his election, be a citizen of the United States.

SEC. 3. If two or more persons have an equal number of votes for mayor, the judges of election shall certify the same to the city council, who shall proceed by lot to determine the result.

SEC. 4. Whenever any election for mayor shall be contested, the city council shall determine the same as may be prescribed by ordinance.

ARTICLE IV.—OF ELECTIONS.

SEC. 1. On the first Monday in June, A. D. 1885, an election shall be held in said city of Dillon for one mayor, one justice of the peace, to be denominated police magistrate for the city of Dillon, one marshal for the city, one city attorney, one city clerk, and one city treasurer, who shall be *ex officio* assessor for the city, and one street commissioner, and for six aldermen; and forever thereafter, on the first Monday in June of each year, said officers shall be elected: *Provided*, that only one-half of the aldermen for said city shall be annually elected thereafter.

SEC. 2. All male inhabitants of the city who are entitled to vote for members of the territorial legislature, and who shall have been *bona fide* residents of the city ninety days preceding said election, shall be entitled to vote, provided that all voters shall vote in the wards in which they live.

ARTICLE V.—POWERS OF THE CITY COUNCIL.

SEC. 1. The city council shall have power and authority to levy and collect taxes for city purposes upon taxable property, real, mixed, and personal, except as hereinafter excepted, within the city limits, not exceeding one-half of one per cent per annum upon the assessed value thereof, and may enforce the payment of the same in any manner that may be prescribed by ordinance, not repugnant to the constitution of the United States, or the organic act of the territory; and may levy a poll tax, not exceeding one dollar, upon each male citizen over twenty-one years of age.

SEC. 2. The city council shall have power to require all officers to give bonds, with penalty and security, for faithful performance of their duties; to establish, support, and regulate common schools;

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and to borrow money on the credit of the city: *Provided*, that no sum of money shall be borrowed at a greater rate of interest than ten per cent per annum, nor shall any sum be borrowed as aforesaid until after the subject shall have been submitted to the legal voters of said city, for which purpose a special election shall be called by the mayor, after giving twenty days' notice thereof; and if a majority of the legal voters of said city shall vote in favor of such loan the same may be negotiated, and not otherwise: *And provided further*, that the annual interest on the loan shall never exceed one-half the revenue annually derived from the tax levied upon the real estate within the limits of said city.

SEC. 3. To appropriate money and funds for the payment of the debts and expenses of the city.

SEC. 4. To make regulations and quarantine laws to prevent the introduction of contagious diseases, and to enforce said laws within five miles of the limits of the city.

SEC. 5. To establish hospitals and regulate the government of the same.

SEC. 6. To make regulations to secure the general health of the inhabitants; to declare what shall be a nuisance, and to prevent and remove the same.

SEC. 7. To provide the city with water; to erect hydrants and pumps, build cisterns, dig wells in the streets for the supply of engines and buckets: *Provided*, that nothing in said section shall be so construed as to deprive private individuals of vested or acquired rights without just compensation being made therefor by the city government.

SEC. 8. To open, alter, abolish, widen, lay out, extend, establish, grade, pave, or otherwise improve and keep in repair streets, avenues, lanes, and alleys, sidewalks, drains, and sewers.

SEC. 9. To establish, erect, and keep in repair bridges.

SEC. 10. To divide the city into wards, alter the boundaries thereof, and create additional wards, as occasion may require.

SEC. 11. To establish, support, and regulate watches.

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SEC. 12. To provide for lighting the streets, and to erect lamp posts.

SEC. 13. To establish markets, market places, and regulate the government of the same.

SEC. 14. To provide all needful buildings for the use of the city.

SEC. 15. To provide for improving and regulating all public grounds belonging to the city.

SEC. 16. To license, tax, and regulate auctioneers, merchants, peddlers, retailers, grocers, taverns, ordinaries, hawkers, brokers, pawnbrokers, and money changers.

SEC. 17. To license, tax, and regulate hackney carriages, wagons, carts, and drays, and fix the rates to be charged for the carriage of persons, and cartage or drayage of property.

SEC. 18. To license and tax, and regulate theatrical and other exhibitions, shows, and amusements.

SEC. 19. To license, restrain, regulate, prohibit and suppress tippling houses, dram shops, gambling houses, dance houses, hurdy houses, and other disorderly houses, and the selling and giving away of intoxicating or malt liquors by any person within the city except by persons duly licensed.

SEC. 20. To organize and establish fire companies, and to provide for the prevention and extinguishment of fires, and to prohibit erecting wooden buildings.

SEC. 21. To regulate the building and fixing of chimneys and flues.

SEC. 22. To regulate the storage of gunpowder, tar, pitch, rosin, and other combustible materials.

SEC. 23. To restrain cattle, hogs, horses, sheep, and dogs, from running at large.

SEC. 24. To provide for taking the enumeration of the inhabitants of said city.

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SEC. 25. To regulate the election of city officers, and to provide for removing from office any person holding an office created by ordinance.

SEC. 26. To fix the compensation of city officers, and regulate fees of jurors, witnesses, and others for services rendered under this act, or any ordinance made in pursuance thereof.

SEC. 27. To regulate the police of the city; to enforce fines, forfeitures, and penalties for the breach of any ordinance, and to provide for the receiving and appropriation of such fines and forfeitures and the enforcement of such penalties; and all moneys collected under or by authority of any city ordinance shall be deemed to be taken to belong to said city, and be disposed of by the city council, under the ordinances of said city, for the general use and benefit of the inhabitants thereof.

SEC. 28. The city council shall have exclusive power within the city, by ordinance, to license, suppress, and restrain billiard tables and bowling alleys.

SEC. 29. The city council shall have power to make all ordinances which shall be necessary and proper for carrying into execution the powers specified in this act, so that such ordinances be not repugnant to nor inconsistent with the constitution of the United States nor the organic act of this territory.

SEC. 30. The style of the ordinances shall be "Be it ordained by the mayor and city council of the city of Dillon."

SEC. 31. All ordinances of the city council shall, within ten days after they shall have been passed, be published in some newspaper in the city, or posted up in three public places in said city, and shall not be in force until they have been published as aforesaid.

SEC. 32. All ordinances of the city council may be proven by the seal of the corporation, and when printed in book form, or pamphlet [form], and purporting to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

ARTICLE VI.—THE MAYOR.

SEC. 1. The mayor shall preside at all meetings of the city council, and, in case of a tie, shall have the casting vote, and in

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no other; in case of the non-attendance of the mayor at any meeting, the board of aldermen shall appoint one of their number as chairman, who shall preside at the meeting, but shall not thereby lose his right to vote on any question before the board.

SEC. 2. The mayor, or any two aldermen, may call a special meeting of the city council.

SEC. 3. The mayor shall at all times be vigilant and active in enforcing the laws and ordinances of the government of the city. He shall inspect the conduct of all subordinate officers of said city, and cause negligence or positive violation of duty to be prosecuted and punished. He shall from time to time communicate to the aldermen such information, and recommend such measures, as in his opinion may tend to the improvement of the finances, police, the health, security, and comfort, and ornament of the city.

SEC. 4. He is hereby authorized to call on every male inhabitant of said city, over the age of eighteen years, to aid in the enforcement of the laws and ordinances, and, in case of riots, to call out the militia to aid in suppressing the same, or other disorderly [conduct, preventing and extinguishing fires, for securing the] peace and safety of the city, or of carrying into effect any law or ordinance; and any person who shall not obey such call shall forfeit to said city a fine not exceeding twenty-five dollars.

SEC. 5. He shall have power, whenever he shall deem it necessary, to require of any of the officers of said city an exhibit of his books and papers.

SEC. 6. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act.

SEC. 7. He shall also have such power as may be vested in him by ordinance of the city in and over all places within five miles of the boundaries of the city, for the purpose of enforcing the health and quarantine ordinances of the city.

SEC. 8. He shall receive for his services, outside of the city, such compensation as may be fixed by ordinance.

SEC. 9. In case the mayor shall at any time be guilty of palpable omission of duty, or shall willfully and corruptly be guilty of oppression, malconduct, or partiality in the discharge of the duties of his

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office, he shall be liable to be indicted in the district court of the proper county, and, on conviction, he shall be fined not exceeding five hundred dollars, and the court on recommendation of the jury may add to the judgment that he be removed from office.

ARTICLE VII.—OF PROCEEDINGS IN SPECIAL CASES.

SEC. 1. When it shall be necessary to take private property for opening, widening, or altering any public street, lane, avenue, or alley, the corporation shall make a just compensation to the person whose property is taken; and when the amount cannot be agreed upon, the mayor shall cause the same to be ascertained by a jury of six disinterested persons, freeholders in the city.

SEC. 2. When the owners of all the property on a street, lane, avenue, or alley, proposed to be opened, widened, or altered, shall petition therefor, the city council may open, widen, or alter such street, lane, avenue, or alley, upon conditions to be prescribed by ordinance; but no compensation shall in such case be made to those whose property shall be taken, their tenants, or others; nor shall there be any assessment of benefits or damages that may accrue thereby to any of the petitioners.

SEC. 3. All jurors impaneled to inquire into the amount of benefits or damages which shall happen to the owners of property proposed to be taken for opening, widening, or altering any street, lane, avenue, or alley, shall first be sworn to that effect, and shall return to the mayor, their inquest in writing, and signed by the jurors.

SEC. 4. The mayor shall have power, for good cause shown, within ten days after inquest shall have been returned to him as aforesaid, to set aside the same and cause a new inquest to be made.

SEC. 5. The city council shall have power, by ordinance, to levy and collect a special tax on holders of lots on any street, lane, avenue, or alley, according to their respective fronts, for the purpose of paving, grading, or planking sidewalks, and lighting such street, lane, avenue, or alley: *Provided*, such tax shall not exceed the actual cost of said sidewalks and lighting, respectively, which tax shall be collected in the same manner as other city taxes.

ARTICLE VIII.—MISCELLANEOUS PROVISIONS.

SEC. 1. The city council shall have the power, for the purpose of keeping the streets, lanes, avenues, and alleys in repair, to require

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every able-bodied male inhabitant in said city, over the age of twenty-one years, to work and labor on said streets, and alleys, not exceeding one day in each year; and every person failing to work when notified by the street commissioner, shall forfeit to the city ten dollars, which may be recovered in the city courts.

SEC. 2. Members of the city council and firemen shall, during their term of service as such, be exempt from working out any road or street tax, and shall likewise be exempt from serving on juries and in the militia of this territory.

SEC. 3. The city council shall have power to provide for the punishment of offenders [who] shall fail or refuse to pay the fines and forfeitures which may be recovered against them.

SEC. 4. All fines and forfeitures collected for offenses committed, or penalties incurred, within the incorporated limits of the city of Dillon, shall be paid into the treasury of said city by the officer collecting the same.

SEC. 5. The city council shall cause to be published, annually, [an account of] all money received and expended by the corporation during the year, and on what account received and expended.

SEC. 6. The city council shall, at their first meeting after their election, proceed to elect one of their number chairman of the board, who shall, in case the police justice shall be disqualified from trying any case arising under the ordinances of the city, proceed to try said cause in the place of the police justice, and shall render his judgment in said cause, which shall have all the force and virtue as a judgment of the police magistrate of the city of Dillon.

SEC. 7. All suits, actions, and prosecutions instituted, commenced, or brought by the corporation hereby created shall be prosecuted in the name of the city of Dillon.

SEC. 8. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, to the district court, and every such appeal shall be granted in the same manner, and with like effect, as appeals are taken from and granted by justices of the peace under the laws of this territory.

SEC. 9. This act is hereby declared to be a public act, and may be read in evidence in all courts of law and equity within this territory, without proof.

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SEC. 10. The city marshal, and the constable within said city of Dillon, shall be authorized and have power to execute, anywhere within the county wherein said city may be located, all processes issued by the police magistrate within said city; and the said marshal shall have power to do all the acts that a constable may lawfully do.

SEC. 11. All actions brought to recover any penalty or forfeiture under this act, or any ordinance, by-law, or regulation of police, made in pursuance thereof, shall be brought in the corporate name.

SEC. 12. In all prosecutions for any violation of any ordinance or by-law of the city council, the procedure shall be the same as governs in the courts of the territory, so far as [the] same may be applicable.

SEC. 13. Execution may issue immediately upon rendition of judgment, and if the defendant have no goods or chattels or real estate within the county whereof the judgment can be collected the officers rendering such judgment may require the defendant to be confined in jail for a term not exceeding three months, and all persons so committed shall be confined one day for each five dollars of such judgment and costs; or the judge may order that they be put to work upon the streets of the city until the fine and costs be paid, allowing two dollars and fifty cents per day.

SEC. 14. The police magistrate shall have jurisdiction in all cases of violation of the city ordinances, and shall have the same jurisdiction in all civil and criminal proceedings as is now or shall hereafter be conferred upon other justices of the peace of this territory, and in all courts of this territory; said police magistrate shall be held to be a justice of the peace; but for violation of the city ordinances no change of venue shall be had to any other justice of the peace, but such change of venue may be had to the chairman of the board of councilmen.

SEC. 15. The duties of all officers mentioned in this act, not herein prescribed, shall be as prescribed by ordinance.

SEC. 16. All ordinances passed by the city council shall be signed by the mayor and attested by the city clerk; and the mayor shall have the power to veto any ordinance passed by the council, if in his opinion such ordinance should not become a law; and in case the mayor veto any ordinance, it shall not become a law until

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the same shall have been passed by a two-third vote of the council.

SEC. 17. The mayor of the city, the city clerk, and one councilman shall constitute the canvassing board of the city, and whose duty it shall be to receive and canvass the votes cast at any city election held under this charter; but no person shall canvass the votes or returns of election if said person shall have been a candidate at said election; and if any or all of said board shall be so disqualified from acting other councilmen shall be called to fill such vacancy in [the] board.

SEC. 19. This charter shall be submitted to the qualified voters of the city of Dillon on the first Monday in May, A. D. 1885, at one convenient place in said city, by directions of the commissioners appointed in this act. The ballots shall have written or printed thereon the words: "For the Charter," or "Against the Charter," and if a majority of the votes so cast at this election shall be in favor of the charter, then this act shall be in full force and effect; but if a majority of the votes so cast be against the charter, then this act shall remain suspended, unless thereafter enforced as herein provided.

SEC. 20. Joseph B. Crow, Benjamin F. White, William C. Orr, Louis C. Fyhrie, George W. Dart, Leonard Eliel, and Charles L. Thamsen are hereby constituted and appointed a committee to act as commissioners, and to serve in such capacity until the first board of aldermen are duly elected and qualified. Such commissioners, or any three of them, shall, if a majority of the voters in said city vote in favor of this charter, within twenty days proceed to lay out said city into three wards, and to fix the boundaries of the same; and shall also, within said time, provide for holding the first election, and fix the place for holding [the] same in each of said wards, and shall appoint persons to act as judges and clerks of said election, who shall be sworn, and whose places may be filled, in case they do not serve, as judges and clerks in other elections. Said election shall be held and returns thereof made and certified in all respects as provided by law for members of the legislative assembly. A copy of said returns shall be immediately delivered to said commissioners, who shall canvass [the] same within three days after the receipt of [the] same; and the persons receiving the highest number of votes for any office, and the two aldermen from [for] each ward receiving the highest number, shall be declared by any four of said commissioners duly elected under this act. If two or more persons receive the same number of votes for the same office the

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commissioners shall determine the same by lot; and thereafter on the first Monday in June the annual election shall be held.

SEC. 21. In case of rejection of this charter on the first Monday in May, 1885, by a majority of the voters of said city, at any time or times thereafter, on petition of fifty freeholders of said city, the commissioners may again call an election, and submit said charter as provided in section 19 of this act; and if the same shall then be accepted by a majority of the voters, then the said commissioners shall proceed as set forth in section 20, to call an election of city officers, who shall hold their offices until the first Monday in June immediately following said election.

SEC. 22. In case of a vacancy or vacancies occurring in said board of commissioners from any cause, the remaining members of said board shall appoint others to fill such vacancy, and shall so do that the provisions of this act shall not fail at any time.

SEC. 23. This act to be in force and take effect from and after its passage.

Approved March 12, 1885.

AN ACT to amend an act entitled "An act to incorporate the city of Fort Benton."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the following section be added to article I, of an act entitled "An act to incorporate the city of Fort Benton:"

SEC. 2, *a*. That the following described territory be and the same is hereby added to and made a part of the city of Fort Benton, to-wit: The E. ½ of S. W. ¼, in section number 23, in township 24 north, of range 8 east, in Choteau county, Montana territory.

SEC. 2. That sections 3 and 4, of article II, of said act be amended so as to read as follows:

SEC. 3. No person shall be an alderman unless at the time of his election he be a freeholder in said city, and shall have resided within the limits of the city one year immediately preceding

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his election, and shall have the requisite qualifications to vote for members of the legislature, and be a resident of the ward for which he is elected.

SEC. 4. If any alderman, after his election, remove from the ward for which he was elected, his office shall be declared vacant by the city council. The aldermen shall serve without any compensation, and the mayor shall receive such compensation as the city council may determine.

SEC. 3. That sections 1, 2, and 3, of artitle III, of said act, be amended so as to read as follows:

SEC. 1. The chief executive officer shall be a mayor, who shall be elected by the qualified voters of the city, and shall hold his office for one year, and until his successor is elected and qualified.

SEC. 2. No person shall be eligible to the office of mayor, unless at the time of his election he be a freeholder in said city, over twenty-five years of age, an elector, and shall have been a resident of the city for one year next preceding his election.

SEC. 3. If any mayor, during the term for which he shall have been elected, remove from the city, or shall be absent from the city for the space of four months, his office shall be vacated, and shall be so declared by the city council.

SEC. 4. That sections 1 and 2 of article IV of said act be amended so as to read as follows:

SEC. 1. On the first Monday in April, of every year, there shall be an election of one mayor for said city, and one alderman for each ward in said city.

SEC. 2. All male citizens of the United States, and those who have declared their intention to become such, of twenty-one years of age, who shall have been actual residents of said city for six months next preceding said election, shall be entitled to vote for city officers to be elected: *Provided*, that said voters shall give their votes in the ward in which they shall respectively reside.

SEC. 5. That article V of said act be amended so as to read as follows:

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ARTICLE V.—POWERS OF THE CITY COUNCIL.

SEC. 1. The city council shall have power and authority to levy and collect ad valorem taxes for city purposes, upon taxable property, real, mixed, and personal, except as herein excepted, within the limits of the city, not exceeding three-tenths of one per cent per annum, upon the assessed value thereof, and may enforce the payment of the same in any manner that may be prescribed by ordinance not repugnant to the constitution of the United States or the organic act of this territory; but nothing herein contained shall prevent the city council from levying and collected [collecting] street taxes, as authorized by an act entitled "An act to provide for the levy and collection of street taxes in incorporated towns and cities," approved March 7, 1883.

SEC. 2. The mayor shall nominate and, with the consent of the city council, appoint all city officers, and, with the consent of the city council, he may remove or suspend any officer. The terms of all officers shall be one year, unless sooner removed. The city council shall fix the fees or compensation of all city officers, and may require such oaths and bonds, with security for the faithful performance of their duties, of all officers, as the council may deem necessary.

SEC. 3. The city council shall have power to regulate the mode of, and establish rules for, its proceedings.

SEC. 4. To adopt a corporate seal, and alter the same at pleasure.

SEC. 5. To receive, purchase, and hold, for the use of the city, any estate, real or personal, and to sell and convey the same.

SEC. 6. To limit and define the duties and power of city officers; to call special elections, provide the method of conducting all elections, and appoint judges and clerks of elections.

SEC. 7. To provide for the defense or prosecution of all actions or proceedings in which the city is interested, and to employ counsel therefor.

SEC. 8. To control and protect the public buildings, property, and records, and insure the same.

SEC. 9. To re-number the lots and blocks of the city, or any part thereof; to survey or re-survey the city, or any part thereof;

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and to cause plats of all surveys to be filed with the recorder of the city council after the same have been approved by the city council.

SEC. 10. To establish a fire department; to appoint or provide for the selection of the members and officers thereof, and prescribe their duties; to purchase fire engines, and all the necessary apparatus for the extinguishment of fires; to erect engine houses; to compel the inhabitants of the city to aid in the extinguishment of fire, and to pull down, or raise [raze], or destroy such buildings in the vicinity of fires as shall be directed by them, any two of them, or the mayor, for the purpose of preventing the communication of fire to other buildings; to establish fire limits, or the limits within which wooden or other combustible buildings shall not be erected; to require the owners or occupants of buildings to provide and keep suitable ladders and fire buckets in or about said buildings; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the manner of putting up stove-pipes, and the construction and cleaning of chimneys; to prevent bon-fires, and the use of fire-works or fire-arms in the city; to authorize the reasonable inspection, at all reasonable times, by officers of the city whose duty it may be to guard against fires, of all dwelling houses, lots, yards, enclosures, and buildings of every description, for the purpose of discovering their condition, and to cause such as may be dangerous to be put in a safe condition; and generally to establish and enforce such measures for the prevention and extinguishment of fires as may be necessary and proper.

SEC. 11. To lay out, open, change, widen, or extend streets, lanes, alleys, sewers, parks, squares, or other public grounds, and to grade, pave, improve, repair, or discontinue the same, or any part thereof; or to establish and open drains, canals, or sewers, or alter, widen, or straighten water courses; to make, alter, widen, or otherwise improve, keep in repair, vacate, or discontinue sidewalks and crosswalks; to prevent the incumbering of streets, sidewalks, crosswalks, and alleys with carriages, carts, wagons, sleighs, sleds, buggies, railway cars, engines, boxes, lumber, firewood, or other obstacles or materials; to prevent horse racing or immoderate riding or driving in the streets of the city; to prevent the riding or driving of animals, or the drawing of vehicles of any kind on the sidewalks of the city, or the doing of damage in any way to such sidewalks; and to require the owners or occupants of buildings to remove snow, dirt, or rubbish from the sidewalks adjacent thereto; and in

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default thereof to authorize the removal of the same at the expense of such owner or occupant.

SEC. 12. To restrain the running at large of cattle, horses, mules, sheep, swine, poultry, and other animals, and to authorize the distraining, impounding, and sale of the same; to establish pounds, and regulate and protect the same; to require the owners or drivers of horses, oxen, or other animals, attached to vehicles or otherwise, to fasten the same while in the streets or alleys of the city; to prohibit the hitching of horses, teams, or animals to any fence, tree, or pump, and to prevent injury to the same; to regulate and control the running of engines and cars through the city, and the rate of speed of the same; to prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to ordinance; and to prevent any unnecessary noise or disturbance during the arrival or departure of persons in public conveyances.

SEC. 13. To establish and regulate markets, and restrain sales in the streets.

SEC. 14. To purchase and hold cemetery grounds, within or without the city limits, enclose, lay out, and ornament the same, and to sell and convey lots therein by deed; to establish public parks and walks, enclose, improve, and ornament the same, and prevent the incumbering or obstruction thereof; and to provide for and regulate the setting out of shade and ornamental trees in the streets, and in and around the cemeteries and public parks and walks of the city, and for the protection thereof.

SEC. 15. The city council shall have power to license, tax, and regulate auctioneers, merchants, peddlers, retailers, wholesale dealers, taverns, hotels, bakeries, restaurants, drinking saloons, billiard halls, hawkers, brokers, pawnbrokers, gambling houses, bankers, assayers, barber shops, livery stables, wash houses or laundries, insurance agencies, photograph galleries, theatrical and other exhibitions and amusements, job wagons, express wagons, drays and carts, omnibusses, hacks, street railways, water companies, breweries, manufacturers, lumber dealers, real estate agents, butchers, meat markets, electric light companies, telephone companies, gas companies, and all other branches of business within the city limits, and in all such cases they may fix the price of such license, and prescribe the term of its continuance, and may revoke the same at pleasure; but the terms of no such license shall extend beyond the annual election of officers next after the granting thereof: *Provided*,

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that no license imposed by the city council shall exceed in amount one-fourth of the license required to be paid by the statutes of this territory, where the laws of this territory impose licenses for like business.

SEC. 16. To prevent and suppress fights, riots, noise, disturbances, disorderly assemblages, disorderly conduct, disorderly houses, houses of ill-fame, immoderate drunkennesss, drinking, vagrancy, obscenity, lewdness, and prostitution, within the limits of the city; to regulate public places of bathing and swimming, or prohibit and prevent such bathing and swimming within the city.

SEC. 17. To purchase, build, or lease, and maintain and regulate a city jail or place for the confinement of offenders against the ordinances and by-laws.

SEC. 18. To make regulations to prevent the introducing of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce the same within five miles of the city; to establish hospitals, and make regulations for the government of the same; to declare what are nuisances, and to prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house, building, or place, to remove or abate the same, or to cleanse it as may be deemed necessary for the public health; to direct the location and management of slaughter houses, and to prevent the erection, use, or occupation of the same; to prevent persons from bringing, depositing, or leaving within the city any putrid carcass or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water, or other unwholesome substances from their premises; and to provide for the cleansing and removal of obstructions from any river, stream, slough, or water course, within the limits of the city, and to prevent the obstruction or retarding of the flow of water therein, or the putting of anything into the same, or into the Missouri river, which may be prejudicial to the health of the city.

SEC. 19. To provide the city with water, erect hydrants and pumps, build cisterns and dig wells in the streets from [for] the supply of engines and buckets.

SEC. 20. To establish, erect, and keep in repair, bridges.

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SEC. 21. To divide the city into wards, alter the boundaries thereof, and create additional wards, as the occasion may require.

SEC. 22. To establish, support, and regulate night watches.

SEC. 23. To provide for lighting the streets, and to erect lamp posts.

SEC. 24. To provide for all needful buildings for the use of the city.

SEC. 25. To establish harbor and dock limits, and to regulate the location and manner of construction and use of all piers, levees, wharves, and boat houses on the Missouri river, and fix rates of wharfage.

SEC. 26. To levy and provide for the collection of taxes and assessments, audit claims and demands against the city, and direct orders to issue therefor; to refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally to manage the financial concerns of the town [city].

SEC. 27. To appropriate money and funds for the payment of the expenses of the city.

SEC. 28. To establish standard weights and measures, and regulate the weights and measures to be used in the city, in all cases not otherwise provided for by law, and to order all laws on the subject to be enforced, aud to fix and enforce payment of fines for noncompliance with any such order.

SEC. 29. To provide for taking the enumeration of the city.

SEC. 30. To regulate fees for jurors, witnesses, and others, for services rendered under this act, or any ordinance made in pursuance thereof.

SEC. 31. To regulate the police of the city, and to ordain and establish all such ordinances and by-laws for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of trade and commerce, and the promotion of health, not inconsistent with the constitution and laws of the United States or

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the organic act or laws of this territory, as they shall deem expedient; and to determine and establish by ordinance the mode of procedure, and what it shall be sufficient to allege and prove in order to make out a *prima facie* case of violation of any ordinance.

SEC. 32. To prescribe penalties for the violation of any ordinance or by-law, to be not less than one dollar nor more than two hundred dollars, in any case, besides the costs of suit in all cases, and, in default of payment, to provide for committing the person convicted to the jail or place of confinement in the city, until payment be made, but not to exceed ninety days in all; and to modify, amend, or repeal any ordinance, resolution, by-law, or other former determination of the council.

SEC. 33. The city council shall have power to make all ordinances which shall be necessary and proper for carrying into execution the powers specified in this act so that such ordinances incur no indebtedness whatever, except as provided by this instrument, and necessitate no levying of taxes exceeding three mills on each dollar, except as provided in sections 5 and 6, in article 7, and section 1, article 5, of this amendatory act.

SEC. 34. The style of the ordinance shall be "Be it ordained by the city council of the city of Fort Benton."

SEC. 35. Every ordinance, after its passage by the city council, shall be presented to the mayor for his approval, and if he approve, he shall sign it; but if not, he shall, within two days, Sundays excluded, after receiving the same, return it to the council, or to the city clerk, if the council be not in session, with his objections thereto, in writing. The council shall, at its next meeting after the return of any such ordinance, order the objections of the mayor thereto to be spread at length upon its journal, and proceed to reconsider it. If, upon such reconsideration, two-thirds of all the members of the council shall vote to pass such ordinance, the objections of the mayor shall be disregarded, and his signature shall not be necessary to its validity. Ordinances shall not be enforced until they have been published in a newspaper within the city.

SEC. 36. All ordinances of the city council may be proven by the seal of the corporation, and when printed in book form or pamphlet form, and purported to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

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SEC. 37. The city council shall have no power to incur or make any city indebtedness, for any purpose whatever, to exceed the sum of $10,000; but if the sum of any indebtedness shall exceed $1,000, the question of incurrence thereof shall be submitted to the duly qualified voters of said city, as provided in sections 5 and 6 of article 7 hereof.

SEC. 38. Every tax or assessment levied under the provisions of an act entitled "An act to incorporate the city of Fort Benton," or of any act amendatory thereof by the city council, is hereby made a lien against any and all the property assessed, and such lien shall attach at the time of such assessment, and shall not be satisfied or removed until such taxes are paid. Where a tax or assessment is levied on real estate a notice of such tax or assessment, together with a description of such real estate assessed, filed with the recorder of Choteau county by the city clerk shall import notice to all persons of such lien.

SEC. 39. The city of Fort Benton may collect any tax or assessment levied, and delinquent, by suit in attachment or otherwise.

SEC. 40. Whenever the city council shall intend to lay out and open, change, widen, or extend any street, lane, alley, public grounds, square, or other place, or to construct and open, alter, enlarge, or extend drains, canals, or sewers, or alter, widen, or straighten water courses therein, or take grounds for any city use and improvement, and when it shall be necessary to take private property therefor they shall cause an accurate survey and plat thereof to be made, and filed with the clerk, and they may purchase or take by donation such grounds as shall be needed, by agreement with the owners, and take from them conveyances thereof to the city, for such use or in fee; but otherwise, they shall by resolution declare their purpose to take the same, and therein described by metes and bounds the location of the proposed improvement, and the land proposed to be taken therefor, defining separately each parcel, and the amount thereof by a distant owner, mentioning the names of the owners and occupants, so far as known, and therein fix a day, hour, and place, when and where they will apply to the probate judge for a jury to condemn and appraise the same.

SEC. 41. They shall thereupon cause to be made by the clerk a notice of the adoption of such resolution, embracing a copy thereof, and notifying all parties interested that the council will, at the time and place named, apply to the probate judge for the appointment

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of a jury to condemn and appraise such land. A copy of such notice shall be served by any constable on the owner of each such parcel of land to be taken, if known and resident within the county, such service to be made in the manner prescribed for serving a summons in an action in the probate court, and the return of the officer shall be conclusive evidence of the facts stated therein. If the notice can not be so given as to all the parcels, then the same shall be also published once in each week, for three successive weeks, in a newspaper published in such city; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served and such publication made for three weeks, complete at least one week before the time fixed therein for such application. If any person so served with notice be a minor, or of unsound mind, the judge before proceeding shall, on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the magistrate, and act for such ward.

SEC. 42. At the time and place fixed for such hearing the application, accompanied by a copy of such resolution and such survey, and by proof of service of the notice, as provided in the last section, shall be filed with the judge, who shall thereupon make a list of twenty-four competent jurors not interested; but residents of the city shall not be disqualified by reason of such residence. He shall hear and decide any challenge for cause and favor made to any one, and, if sustained, shall replace his name with an unobjectionable juror until the list shall be perfected. Thereupon, under the direction of such judge, each party, the city council by its representatives on the one side, and the owners of land and their agents present on the other, shall challenge six names, one at a time, alternately, the city council beginning. To the twelve jurors remaining such judge shall issue a precept, requiring them at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him to be sworn and serve as a jury to view lands and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named. Such precept shall be served by any constable, at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode in the presence of a member of his family.

SEC. 43. The jurors summoned shall appear at the time and place named; and if any be excused by the judge, or fail to attend, he shall direct other disinterested persons to be forthwith

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summoned in their stead, until twelve be obtained. The judge shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and, if found necessary, the damage occasioned thereby, and faithfully discharge their duties as jurors according to law.

SEC. 44. Under the direction of such judge the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any of the parties; and for such purpose such judge shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the same from day to day. The jury shall render a separate, unanimous verdict, in writing, signed by them, in which they shall find whether it be necessary to take such land, or any part thereof, for such purposes, describing such as they deem necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisement of damages, specifying therein the damages of each owner, and the value of the land taken from each, and the damage otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvement; and a majority of such jury may render such verdict or appraisement of damage, and shall sign the same. Any technical error in such verdict may be immediately corrected with the assent of the jury, and they shall thereupon be discharged, and their verdict filed by the judge. In case the jury shall fail to find a verdict another jury shall be selected, summoned, sworn, and proceed in the same manner.

SEC. 45. Within ten days after such verdict any land owner whose land has been found necessary to be taken may appeal from the award of damages to him in such verdict to the district court, and the city may likewise appeal from the award of damages to any owner, by filing with such judge a notice of appeal, specifying whether the appeal is from the whole award to him, or a part, and if a part, what part, and therewith an undertaking with two sufficient sureties, to be approved by the judge, to pay all costs that may be awarded against such appellant on the appeal, and paying the judge for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisement. Upon an appeal being taken, the judge shall transmit to the clerk of the district court, within ten days, the notice of appeal and undertaking, and thereto annexed a copy of all the papers and proceedings before him with his certificate thereof. He shall, after the time for appealing has expired, file with the city clerk, annexed together, all the

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original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify, and the clerk shall record all such proceedings.

SEC. 46. Upon filing such transcript in the district court, the appeal shall be considered an action pending in such court, and be so entered, and be subject to change of venue and appeal to the supreme court. The appeal shall be tried by a jury, unless waived; and costs shall be awarded against the appellant if a more favorable verdict be not obtained, otherwise against the respondent. Upon entry of judgment, the clerk of the district court shall transmit a certified copy thereof to the city clerk.

SEC. 47. If the verdict of the jury first called find it necessary to take such land, or any part thereof, the city council may, upon return thereof to the clerk, enact an ordinance according thereto for laying out, changing, widening or extending, and opening any such street, lane, alley, public ground, square, or other public place, or constructing and opening, altering, enlarging or extending any such drains, canals or sewers, or altering, widening or straightening any such water course, or for any city use and improvement, but shall not enter upon any such land therefor, until the owner be paid in full the damages awarded him by such verdict, or appraisement, or such damages be set aside for him in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the clerk, to permanently remain subject to his order. At any time before causing any such land to be actually taken, or put to public use, and before the rendition of a judgment in the district court for damages, the city council may discontinue all proceedings theretofore taken, and the city shall, in such event, be liable for the costs only. All the costs of every such proceeding shall be paid by the city, except when it recovers costs in the district court.

SEC. 48. For the purpose of payment of the expenses, including all damages and costs incurred by the taking of private property, and of making any improvement mentioned in the preceding section, the city council may, by resolution, levy and assess the whole or any part, not less than half of such expenses, as a tax upon such property as they shall determine is specifically benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the mayor and clerk, shall be published once in each week for two weeks, in a newspaper published regularly in such

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city, and a notice therewith that, at a certain time therein stated, the council will meet at their regular place of meeting and hear all objections which may be made to such assessment, or any part thereof. At the time so fixed the council shall meet and hear all such objections, and for that purpose may adjourn from day to day, and may, by resolution, modify such assessment in whole or in part. At any time before the first day of August thereafter, any party liable may pay any such tax to the city treasurer.

SEC. 49. Upon the petition in writing of all owners of lots or lands on any street or alley in such city, and not otherwise, the city council may discontinue such street or alley, or any part thereof. At least one week before acting on such petition the council shall cause a written or printed notice to be posted in three public places in such city, stating when the petition will be acted on, and what street or alley, or part thereof, is proposed to be vacated.

SEC. 6. That there be added to article VI of the act to which this act is amendatory the following section:

SEC. 9. The mayor may grant pardons and remit fines and forfeitures for offenses against city ordinances, when, in his judgment, public justice and the welfare of the city would thereby be subserved, but he shall report all such cases, with the reasons for the exercise of his clemency, to the city council at its first meeting after he shall have so extended clemency in any case; and he shall have control over the city marshal and all policemen and night watchmen in the city.

SEC. 7. That sections 1, 6, 7, 10, 16, 20, 22, of article VII, of the act to which this act is amendatory, be amended so as to read as follows:

SEC. 1. The city council shall have the power, for the purpose of keeping the streets, lanes, avenues, and alleys in repair, to require every able-bodied male inhabitant in said city, over the age of twenty-one and under forty-five years, to labor on said streets, lanes, avenues, and alleys, not exceeding one day in each and every year, and every person failing to perform such labor, when duly notified, shall forfeit and pay three dollars for said day so neglected or refused, to be used in improving the public streets.

SEC. 6. After the passage of said ordinance, by such vote, the same shall be published in a city newspaper, for at least one week,

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if daily, and two weeks, if weekly, together with a notice that the same will be submitted to a vote of the tax paying real estate holders of said city, on a day and at a place to be named, which election shall be conducted as is provided for, and the ballots shall be "For section —— of an ordinance entitled (giving title)" or "Against section —— of an ordinance entitled (giving title);" and if two-thirds of said voters shall approve the same the said ordinance shall be in force, but if not approved the same shall be void.

SEC. 7. The city council shall provide the detailed method of conducting such elections, not inconsistent with this act.

SEC. 10. The city council shall cause to be published, annually, in a newspaper of said city, a general statement of the finances of said city, showing in condensed form what moneys have been received, and from what source, and the amount and purpose for which moneys have been paid out or expended. The books of the city assessor and treasurer shall be open, at all proper hours, to the inspection of any tax payer of said city, or other person.

SEC. 16. The city marshal, and such policemen and night watchmen as may be appointed within said city, shall be authorized to execute all processes issued by the police magistrate, and to perform all duties pertaining to their office.

SEC. 20. The police magistrate shall have jurisdiction in all cases of violation of city ordinances.

SEC. 22. There shall be a police magistrate, city attorney, a city clerk, city assessor, a city treasurer, a city collector, a city marshal, and such other officers as may be necessary and required. The police magistrate shall have the exclusive jurisdiction of all offenses against the ordinances of the city. The city attorney, city assessor, city clerk, city treasurer, city collector, and city marshal shall severally discharge the duties usually pertaining to said offices, respectively, and the manner thereof may be prescribed by ordinance. Such other officers as may be appointed shall perform such duties as may be prescribed by ordinance. One and the same person may hold several offices.

SEC. 8. All acts or parts of acts, in conflict with this act, are hereby repealed.

SEC. 9. This act to take effect from and after its passage.

Approved March 10, 1885.

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AN ACT to amend an act entitled "An act to incorporate the city of Helena," approved February 22, 1881.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That section 33 of article 5, of an act entitled "An act to incorporate the city of Helena," approved February 22, 1881, be amended so as to read as follows:

SEC. 33. The city council shall have power to make all ordinances which shall be necessary and proper for carrying into execution powers specified in this act: *Provided*, that no ordinance shall take effect until it has first been presented to the mayor for his approval; if he approves, he shall sign it; but if not, he shall return it to the council, or to the city clerk, if the council be not in session, with his objections thereto, in writing. The council shall at its next meeting after the return of any such ordinance cause the objections of the mayor thereto to be spread at length upon its journal, and shall proceed to reconsider it. If after such reconsideration two-thirds of the council shall vote to pass such ordinance, the same shall take effect and be in force, the mayor's objections thereto notwithstanding; but in all such cases the votes shall be by yeas and nays, and the names of the persons voting for or against the ordinance shall be entered on the journal. If any ordinance is not returned by the mayor or filed with the city clerk within two days, Sundays excluded, after he shall have received it, the said ordinance shall take effect and be in force in like manner as if he had signed it. No appropriation for city expenses or improvements exceeding in amount the sum of five hundred dollars shall be made except by ordinance duly passed, as above provided, except that an ordinance which only makes appropriations, and extends to no other subject, need not be posted, as required by section 35 of this article, before the same shall take effect. If an ordinance so passed contain several appropriations the mayor may approve as to some of the items thereof, and disapprove as to others.

SEC. 2. That there be added to said article 5 of this act, to which this is amendatory, the following section, to be numbered section 37, viz.:

SEC. 37. The city council shall have power at its first meeting after the passage of this act, and annually thereafter at its first meeting after the first day of April of each year, to elect one of its members chairman, who, in the absence of the mayor, shall preside at

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its meetings, and in case of the absence of the mayor from the city shall discharge all of the duties of mayor during his absence.

SEC. 3. That there be added to article 6 of the act to which this is amendatory the following section, to be numbered section 9, to-wit:

SEC. 9. The mayor may grant pardons, and remit fines and forfeitures for offenses against city ordinances, when, in his judgment, public justice would be thereby subserved, but he shall report all such cases, with the reasons for the exercise of his clemency, to the city council at its first meeting after he shall so have extended clemency in any case.

SEC. 4. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved January 30, 1885.

AN ACT to amend an act entitled "An act to incorporate the city of Helena," approved February 22, 1881.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That sections 1, 7, 9, 20, and 21, of article V, of "An act to incorporate the city of Helena," approved February 22, 1881, be amended so as to read as follows:

SEC. 1. The city council shall have power and authority to levy and collect ad valorem taxes, for city purposes, upon all taxable property, real, personal, and mixed, except as herein excepted, within the city limits, not exceeding three mills per annum upon the assessed value thereof for general purposes, and not exceeding three mills per annum upon the assessed value thereof for fire department purposes, in addition to the tax authorized to be levied for street purposes, under the provisions of the act of the legislative assembly of Montana, entitled "An act to provide for the levy of street taxes in incorporated towns and cities," approved March 7, 1883, and may enforce the payment of such taxes in any manner

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that may be prescribed by ordinance, not repugnant to the constitution of the United States or the organic act of this territory. All taxes collected for general purposes shall be paid into the general fund, and taxes collected for fire department purposes shall be paid into the fire department fund, and taxes collected for street purposes shall be paid into the street fund. Every warrant drawn upon the city treasurer shall designate the fund out of which the same is to be paid, and shall be paid only out of moneys belonging to the fund so designated. No moneys shall be transferred from one fund to another, except under the authority of an ordinance of said city council.

SEC. 7. To make regulations to secure the general health of the inhabitants; to regulate the burial of the dead, the return of bills of mortality and birth statistics; to declare what are nuisances, and to prevent or abate the same; to require the owner or person conducting, occupying or having charge of any grocery, cellar, tallow chandler's shop, soap factory, dairy, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house, building, or place, to remove or abate the same, or to cleanse it, as may be necessary for the public health; to direct the location and management of slaughter houses, and to prevent the erection, use or occupation of the same; to prevent persons from bringing, depositing or leaving within the city limits, any putrid carcass, or other unwholesome substance; to require the owners or occupants of lands or buildings to remove dead animals, stagnant water, or other unwholesome substances from their premises, and to provide for the cleansing and removal of obstructions from any water course within the city limits, and to prevent the obstruction or retarding of the flow of water therein, or the putting of anything into the same which may be prejudicial to the health of any of the inhabitants of the city.

SEC. 9. To lay out, open, change, widen, or extend streets, lanes, alleys, sewers, parks, squares, or other public grounds, and to grade, pave, improve, repair, or discontinue the same, or any part thereof; to establish and open drains, canals, or sewers, or alter, widen, or straighten water courses; to make, alter, widen, or otherwise keep in repair, vacate, or discontinue sidewalks and crosswalks; to prevent the incumbering of streets, sidewalks, crosswalks, and alleys with carriages, carts, wagons, sleighs, sleds, lumber, firewood, or other obstacles or materials; to prevent horse racing or immoderate riding or driving in the streets or public places of the city; to prevent the riding or driving of animals, or the drawing of vehicles of any kind on the sidewalks, or the doing of any damage to such sidewalks; to require the owners or occupants of

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lots or buildings to remove snow, dirt, rubbish or other obstruction or material from the sidewalks adjacent thereto; and, in default thereof, to authorize the removal thereof at the expense of such owners or occupants.

SEC. 20. To regulate, limit, or prevent the storage of gunpowder, tar, pitch, rosin, coal oil, and other dangerous or combustible materials.

SEC. 21. To regulate parapets, walls, and partition fences; to restrain the running at large of cattle, horses, mules, sheep, swine, poultry, and other animals, and to authorize the distraining, impounding, and sale thereof; to establish pounds, and regulate and protect the same; to require the owners or drivers of horses, oxen, or animals, attached to vehicles, under saddle, or otherwise, to fasten the same while in the streets, alleys, parks, or other public places of the city; to prohibit the hitching of horses, teams, or other animals to any fence or tree, and to prevent injury to the same; to regulate and control the running of engines and cars through the city, and the rate of speed of the same; to prevent the running at large of dogs, and to authorize the impounding or sale or destruction of the same in a summary manner when found running at large contrary to ordinance; to prohibit cruelty to animals, and to provide for the punishment of persons who shall be guilty of cruelty to animals.

SEC. 2. The city council of said city of Helena shall have power to condemn and appropriate private property for opening, establishing, widening, or altering any public street, avenue, alley, lane, park, sewer, water-way, or for any other public use, and the resolution or ordinance of the city council ordering, directing, authorizing, or providing for the taking of private property for any such use shall be conclusive as to the necessity for such taking.

SEC. 3. The following shall be a classification of the estates and rights in lands subject to be taken for public uses by or on behalf of said city:

First. A fee simple, when taken for public buildings or grounds, or for permanent improvements or water-ways.

Second. An easement, when taken for any other use.

SEC. 4. All classes of private property may be taken for the public uses in this act mentioned.

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SEC. 5. In all cases where the city council by resolution or ordinance has authorized, or shall authorize, the taking of private property for public use, just compensation shall be paid to the owner or owners for the property so taken; and no final order authorizing the said city to enter upon said lands shall be made without providing that before the condemnation shall take effect the compensation adjudged to be paid to the owner or owners shall be paid to such owner or owners, or deposited in court, subject to his or their order; but at any time after service of notice of the application hereinbefore mentioned, the court or judge may authorize said city, if already in possession, to continue therein, and if not in possession, then to take possession of and use the property during the pendency, and until the final conclusion of such proceedings, and may stay all proceedings against said city on account thereof.

SEC. 6. If the owner or claimant of such lands or other property, and the mayor or other officer authorized by the city council, cannot agree as to the damages or compensation to be paid for such property, the amount shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application of the mayor or other authorized officer to the district court in and for the county of Lewis and Clarke, or to the judge thereof, or, in the absence of such judge, then to the judge of the probate court in and for said county. Said commissioners shall hear such legal testimony as may be offered by any party to the proceedings, and for that purpose shall be authorized to administer all necessary oaths, and thereupon must ascertain and assess—

First. The value of the property sought to be condemned, and all improvements thereon pertaining to the realty, and of each and every separate interest or estate therein. If it consists of different parcels the value of each parcel, and each estate or interest therein, shall be separately assessed.

Second. If the property sought to be condemned constitutes only a part of a larger parcel the damages which will accrue to the portion [not] sought to be condemned by reason of its severance from the portion sought to be condemned, and the construction of the improvement, or exercise of the use in the manner proposed by the city council.

Third. Separately, how much the property not sought to be condemned, and each estate or interest therein, will be benefited, if at all, by the construction of the improvement or exercise of the use proposed by the city council; and if the benefit shall be equal to

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the damages assessed under subdivision 2 of this section, the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit shall be less than the damages so assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value.

Fourth. As far as practicable, the compensation or damages shall be assessed for each source of damage separately.

SEC. 7. For the purpose of assessing compensation or damages, the right thereto shall be deemed to have accrued at the date of the application, and its actual value at that date shall be the measure of compensation for all property actually taken or to be taken, and the basis of damages to property not actually taken, but injuriously affected. If an order be made letting said city into possession, the compensation and damages awarded shall draw legal interest from the date of such order. No improvement put upon the property subsequent to the date of the service of notice of the application for appointment of commissioners shall be included in the assessment of compensation or damages.

SEC. 8. Upon the return into the said district court of such appraisement, and upon the payment to the clerk thereof the amount so awarded by the commissioners for the use and benefit of the owner of the property taken, said city shall acquire full title to the same, for the purposes aforesaid, and the court or judge shall make such order as may be proper in the premises, a certified copy of which order shall be recorded in the office of the county recorder of said Lewis and Clarke county, and shall have the same force and effect as a conveyance.

SEC. 9. The city council shall in the ordinance or resolution condemning property provide the method of paying the compensation or damages, and also shall provide what part, if any, thereof shall be paid by the city.

SEC. 10. The city of Helena shall not be required to give any bond, undertaking, or other security for costs, or on attachment, injunction, or appeal, in any suit prosecuted or defended in its name.

SEC. 11. All warrants now outstanding which have heretofore been drawn by the proper authorities of the city of Helena shall, after having been presented to the city treasurer of said city, and

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by him indorsed "Not paid for want of funds," from and after the date of such presentation and indorsement, draw interest at the rate of seven per cent per annum, until paid, or until there shall be funds in the city treasury for the payment thereof.

SEC. 12. All warrants which may hereafter be drawn by the proper authorities of said city for payment of salaries of officers, for fuel, lights, care of prisoners, printing, stationery, necessary repairs of city property, and other contingent expenses of said municipal corporation, shall, after having been presented to the city treasurer of said city, and by him indorsed "Not paid for want of funds," draw interest as provided in the following [foregoing] section.

SEC. 13. After the passage of this act said city council shall not cause to be drawn upon the treasurer of said city any warrant, except in payment of contingent expenses, and in the fulfillment of existing contracts, unless at the time such warrant is drawn there shall be funds in the city treasury, not otherwise appropriated, sufficient to pay such warrant.

SEC. 14. That section 4 of article VII of an act entitled An act to incorporate the city of Helena, approved February 22, 1881, be amended so as to read as follows:

SEC. 4. The city council shall have power, by ordinance, to levy and collect a special tax on the holders of lots on any street, lane, avenue, or alley, according to their respective fronts, or according to the benefits to said property, for the purpose of grading, paving, widening, extending, or improving said street, lane, avenue, or alley, or constructing a sewer or sewers, or laying or paving sidewalks, or lighting such street, lane, avenue, or alley, provided such tax shall not exceed the actual cost of said sidewalk, lighting, grading, paving, sewer, or other improvement, respectively, which tax shall be collected in the same manner as other city taxes, but no tax for any of the purposes in this section mentioned shall be levied, except upon the petition of persons owning a majority of the front feet of the real estate to be taxed for such purposes.

SEC. 15. All acts and parts of acts, in conflict with this act, are hereby repealed.

SEC. 16. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

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AN ACT to incorporate the city of Missoula.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the inhabitants of the present town of Missoula, in the county of Missoula, and territory of Montana, be, and they are hereby, constituted a body politic and corporate, by the name and style of the "City of Missoula," and by that name shall have perpetual succession, and shall have all the powers usual and incident to corporations of this character; to sue and be sued, plead and be impleaded, contract and be contracted with, to have and use a common seal, to alter, amend, or abolish the same at pleasure, and until it shall be determined to alter, amend, or abolish the present seal, now in use by the town officers of the town of Missoula, the same shall be used by this corporation, and full credit shall be given to all papers or documents to which the same may be legally attached.

SEC. 2. The following described territory shall compose the said city, to-wit: commencing at the north-west corner of the north-east quarter of section 21, township 13 north, range 19 west, running thence north 80 rods; thence east 320 rods; thence south 80 rods; thence east 160 rods; thence south 320 rods, more or less, to the middle of the channel of Hell Gate river; thence down the middle of the channel of said Hell Gate river to the head of the so-called Big Island; thence down the middle of the south channel of said river, to a point due south of the place of beginning; thence north to the [place of] beginning.

SEC. 3. That whenever an additional tract or parcel of land adjoining the said city of Missoula shall be laid off into lots and blocks, with streets and alleys, in such size and in such manner as may be required by the city council, and the plat of the same shall be recorded in the recorder's office of Missoula county, and a plat of the same shall be filed with the records of the city council, and the same shall be accepted and approved by the city council, said tract or parcel of land shall become annexed to and form a part of said city.

DISTRIBUTION OF POWERS OF GOVERNMENT.

SEC. 4. The corporate powers of the city of Missoula shall be divided into three distinct and separate parts, viz.: Legislative, executive, and judicial. No person or officer of one of the departments

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shall exercise any power properly belonging to either of the others, except in the instances hereafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT.

SEC. 5. The legislative powers of said corporation shall be vested in and exercised by a city council, to consist of a mayor and board of aldermen. The board of aldermen shall consist of two members from each ward, to be selected and chosen by the qualified voters for two years, and until their successors shall be elected and duly qualified. One alderman shall be elected in each ward every year, and the aldermen now in office shall hold their offices until their terms shall expire, as provided by the charter of the town of Missoula, under which they now hold said offices. The wards of said city shall remain as now fixed and located by the town council of the town of Missoula until such time as the said city council shall determine to increase the number of wards in said city. Said elections shall be held on the second Monday of April, 1885, and annually thereafter.

SEC. 6. No person shall be eligible to the office of alderman unless at the time he shall have been elected to such office he was a tax payer, and was a resident and qualified voter, under the provisions of this charter, within the ward for which he shall be chosen. Any alderman who shall remove from the ward in which he resided at the time of his election shall forfeit his office, and it shall be the duty of the city council to so declare, and declare the same vacant. All vacancies occurring in the board of aldermen shall be filled by a selection being made by the board in regular session.

SEC. 7. All elections for aldermen in said city shall be held on the second Monday of April of each year. The manner of conducting said elections, not provided for in this act under the subject of "elections," may be prescribed by ordinance of said city council. The city council shall judge of the qualifications of its members, and shall hear and determine all contested elections under this act. A majority of the council shall constitute a quorum to do business, but a smaller number may adjourn from time to time, and compel the attendance of absent members, under such penalties as may be prescribed by ordinance. The council shall have power to make rules to govern its proceedings, and may, by order entered upon its journal, punish disorderly members, and may by two-thirds vote, and for good cause, expel a member. No alderman shall be appointed to any office under the authority of said city during his term of office.

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SEC. 8. There shall be a stated meeting of the city council once in each month, to be holden at such time as the council may fix by order entered upon the journal, or by ordinance, and shall have such other special or called meetings from time to time as the mayor may deem expedient and proper.

SEC. 9. The city council shall cause to be kept a correct journal of its proceedings, and immediately before the adjournment of each session cause the said proceedings to be read, and they shall correct any errors which appear to have been committed by their clerk.

SEC. 10. The city council shall have power and authority within the city limits, in addition to the other powers granted by this charter, to levy and collect ad valorem taxes, for city purposes, upon all the taxable property within said city which may be domiciled therein, except such as may be exempt from taxation by the general laws of the territory, at a rate not exceeding three-tenths of one per cent per annum upon the assessed value thereof, and may enforce the payment of the same in the manner prescribed by the general laws of the territory for the collection of territorial and county taxes.

SEC. 11. All assessments of rates of taxation upon the property of said city shall be ascertained and fixed by a no less number than a majority of all the members of said council then elected, and the order or resolution levying the per centum of taxes upon the taxable property of said city by the council shall be passed and evidenced by a vote of the council upon a call of the yeas and nays, to be recorded upon the journal of proceedings. All other laws, ordinances, or resolutions of said council, not hereinafter excepted, shall be valid if voted for by a majority of the quorum present. Upon all questions voted upon by the council any member shall have the right to call for the yeas and nays, and have the same recorded upon the journal of proceedings.

SEC. 12. The city council shall have no power, in making appropriations or incurring indebtedness, to exceed the net revenues of said city, that is to say, the levy of the ad valorem tax upon the property of said city, and the licenses, special taxes, and fines, collected in any one year, and should it become necessary, in the judgment of the council, to incur a debt greater than the amount of the aggregate receipts of said city in any one year, it shall be the duty of the city council to submit the question of the incurrence of said debt, or of making the appropriation, to the qualified voters of said

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city, the time, place, and manner of submitting said question, and of taking the sense of the people thereon, shall be prescribed by city ordinance: *Provided*, however, that no greater debt than two thousand dollars shall be incurred, except as hereinafter permitted and authorized by this charter.

SEC. 13. The council shall have power to make regulations to prevent the introduction or spreading of contagious or infectious diseases in the city; to pass quarantine laws for that purpose, and to enforce the same within five miles of the boundary thereof; to establish hospitals in or outside the city, and to make regulations for their government, and to make all regulations necessary to secure the general health of the inhabitants of the city.

SEC. 14. To prevent, abate, and remove physical nuisances at the cost and expense of the owners [or] occupants thereof, or of parties upon whose grounds they exist, and to define and declare by ordinance what shall be a nuisance, within the limits of said city, and to punish by fine any person for keeping, causing, erecting, or committing a nuisance, either physical or moral.

SEC. 15. To provide the city with water; to erect hydrants and fire plugs within the limits of the city for the convenience of its inhabitants.

SEC. 16. To lay out and open, change, widen, or extend any street, lane, alley, public grounds and squares, and to condemn lands and materials, such as dirt, stone, or gravel, in the manner now provided by the general laws of this territory on the subject of "corporations, municipal," for the condemnation of lands for such purposes.

SEC. 17. To erect, establish, and keep in repair bridges, culverts, and sewers, and regulate [the] use of the same.

SEC. 18. To provide for lighting the streets, market houses, and other public buildings, rooms, and offices; to establish, support, and regulate policemen, night watches, and patrols, and prescribe their duties and fix their compensations, and to provide for the condemnation and destruction of stale and unwholesome meats and vegetables; and they may rent market-house rooms or stalls, under such regulations and for such sums as they may deem proper; to provide for the erection and repair of needful public buildings for the

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city, and to provide for the enclosing and improving of all public grounds belonging to the city.

SEC. 19. To license, tax, and regulate auctioneers, grocery merchants, merchants, retailers, hotels, professional men, tippling houses, gambling houses, gift stores, lotteries, jewelers, peddlers, brokers, pawnbrokers, money changers, bankers, barbers, blacksmiths, wagon makers, dealers in implements of husbandry and feed, and all houses and places where spirituous, vinous, or malt liquors are sold or manufactured; all artists, all public halls, lectures, concerts, and other places of amusement; to license, tax and regulate all hacks, carriages, coaches, omnibusses, carts, drays, and wagons, provided the same be run in said city for carrying freight or passengers for hire, and all other vehicles used in said city for such purposes; to tax, license, and regulate theatrical and other exhibitions, shows, and amusements, circuses, menageries, and museums, except school exhibitions and concerts; to tax, license, and regulate all livery and feed stables, all billiard tables and pigeon-hole tables, bowling saloons and ten pin alleys, exchange offices, telephone offices, telegraph offices, insurance offices, or the agent keeping the same, agents keeping lottery offices, express offices, or the agents thereof, real estate agents, or the office for the purchase of real estate, shooting galleries, skating rinks, public boarding houses, restaurants, and all other houses conducted for amusements; and that said city council is hereby permitted and authorized to fix such license or tax upon the foregoing trades and callings as in the judgment of said city council may seem right and proper, but in no instance shall such license be granted for a longer period than one year; but nothing in this act shall authorize the license of any bawdy house or house of ill-fame.

SEC. 20. The council shall have power to provide for the prevention and extinguishment of fires, and regulate and establish fire companies, to prescribe their duties, and fix their compensation; and the officers and men composing said fire companies shall be exempt from services on juries, if they so desire, and shall be exempt from paying road or street tax so long as they remain active members of such companies. The council shall have power to establish fire limits, in which they shall prescribe the character of material to be used in the erection of buildings; they shall have power to appoint fire wardens and property guardians, with full power to arrest and keep away from the vicinity of any fires any idle or suspicious persons lurking near the same, and to compel any person or persons at a fire to assist in extinguishing [the] same, or prevent spreading of same, and to have power to compel all persons present at the fire to assist in the preservation of property exposed to the dangers

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of such fire, and to prevent the purloining or stealing of goods or property at such fire, and such other powers and duties as may be prescribed by ordinance.

SEC. 21. To regulate the manner of building chimneys and flues, and sweeping and cleaning [the] same; to regulate the storage of gunpowder, rosin, tar, pitch, cotton, and all combustible materials and oils, and to designate and appoint some suitable person or persons, at reasonable hours, to enter and examine such houses as they may designate, in order to ascertain whether any of such houses are in a dangerous condition with reference to fires, and to cause such as are in a dangerous condition to be immediately put in safe order and condition.

SEC. 22. To regulate parapets, walls, and partition fences, and to restrain cattle, horses, sheep, dogs, and hogs and other animals from running at large in the city, and prevent reckless driving and riding upon the streets of the city; to establish standard weights and measures, and to regulate the weights and measures in all cases in the city, not otherwise provided by law; and to regulate the election of city officers, and to provide for the removal from office of any person holding an office created by ordinance.

SEC. 23. To regulate the police of the city, and restrain any riot, rout, noise, disturbance, or disorderly behavior, or unlawful assembly, or indecent exposure of one's self or another, and to regulate and promote the morals, the peace and good government of the city, the protection and preservation of the property of the city and its inhabitants, and the trade, commerce, and manufactures thereof, by the passage of such ordinances as the council may deem expedient, not repugnant to the constitution of the United States and the organic act of this territory, and to enforce the observance thereof by inflicting such fines and penalties upon any and all persons for a violation thereof, not exceeding one hundred dollars for any one offense, or two months imprisonment in the city jail, or both such fine and imprisonment, in the discretion of the court so trying the case; and to make all ordinances which may be necessary and proper for carrying into effect the powers vested by this act in the corporation, the city government, or any department of office thereof.

SEC. 24. The city council shall have the power to purchase lands for, and locate, cemeteries, and for other city purposes, either within the city limits, or elsewhere in Missoula county, and exercise full

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and complete control over the same, and enforce the proper regulations and management thereof by adequate fines and penalties; and may appoint one or more sextons, and regulate their duties and fix their compensations.

SEC. 25. The city council shall have power to define by ordinance what shall constitute vagrancy within the city, and prescribe the punishment therefor.

SEC. 26. The city council shall have power to pass ordinances to require the improvement of streets, alleys, avenues, and lanes in the city of Missoula, either by grading and paving, or macadamizing, or graveling, or otherwise improving the same, or any portion thereof, not less than the distance across one block or square; said improvement or repairing of any such street, avenue, alley, or lane, or sidewalk, shall be done at the cost and expense of the owner or owners of the ground fronting such improvement, and the cost of such improvement to be apportioned according to the number of feet front each may own in front of said improvement; and a lien is hereby created on the said ground for the cost of said improvement or repair, all of which improvement or repairing, when required to be made, the city council shall order done by the passage of an ordinance for that purpose, which ordinance shall fully declare and prescribe the kind and extent of improvement to be made. Upon the passage of the ordinance, it shall be the duty of the mayor of the city to enter into a contract with any person or persons offering or agreeing to do the work required to be done by such ordinance upon the best and most advantageous terms for the property owners; and the better to enable him to do this, he shall advertise the letting of said work in some newspaper published in said city, for at least two weeks, for sealed proposals for the doing of said work, and report such contract in writing as he may be able to effect to the city council for their acceptance or rejection. That all contracts thus made with the mayor and the person or persons proposing to do the work shall not be binding until ratified by the city council; and said city council shall require of such contractor or contractors bond, with security, to be approved by the council, conditioned for the faithful performance of said contract. It is further provided, that said work shall be performed under the supervision of the mayor and city surveyor, and subject to the acceptance of said city council. And it shall be the duty of the city surveyor to make out and report to the city council complete and accurate estimates and apportionments of the costs of said work and improvements, against the owners of property liable to pay the same, designating each one's respective liability. That when said council shall have properly

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passed an ordinance requiring said improvements to be made, and when a contract in pursuance to such ordinance shall be executed and ratified as aforesaid, and the council shall have received the report of the city surveyor, estimating and apportioning the cost of the work, and the council by order or resolution shall have received said work as done according to contract, then the liability of the owners of the property chargeable with the cost of said work shall be fixed. The liens given for the purposes named in this section may be enforced by filing a complaint in the district court in and for Missoula county, in favor of the contractor or his assignee, against any and all the persons liable for the costs of said work, and it shall only be necessary for the plaintiff in the action, in bringing his suit, to file a copy of the ordinance requiring the work to be done, a copy contract for doing the same, a copy of the city surveyor's report showing the respective liability of each person sued, a copy of the order or resolution of the council receiving said work as being done according to said contract, which shall be, together with corresponding allegations in the plaintiff's complaint, *prima facie* evidence of plaintiff's right of recovery; and if the court shall be of opinion that said work has been done according to contract aforsaid, then, in that event, it shall be the duty of the court to adjudge a sale of so much of the lot or lots of each person as will pay his or her part of the cost, according to the estimate of the city surveyor, against him or her, and for the costs of suit. Any judgment directing the sale of any such property shall direct that the property may be redeemed at any time within one year from the day of sale, and the purchaser shall be entitled to receive ten per cent per annum from the day of sale till the time for redemption shall have expired. And it is further provided, that if said property is not redeemed within the time specified, it shall be the duty of the officer making the sale to convey the property to the purchaser. And it is further enacted and provided that the costs of any improvement to owners of the property ordered to be made at the costs of the lots shall in no case exceed one-half the value of the lot or lots in front of which said improvement shall be made; and for the purpose of ascertaining the value of lots in front of which the street is proposed to be improved, the council shall, on motion of any owner of a lot who alleges that the proposed improvements will cost more than one-half the value of the lot, appoint one person, and the said owner shall name one person, and the two so selected shall choose a third person, and the three persons thus selected, after being sworn, shall value the lot or lots in front of which the improvement is proposed to be made, and said valuation shall be made before the improvement is made; and the property shall be valued in its unimproved state; and if the cost shall exceed one-half the value of the property, running back

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the full depth of said lot from said street, then, in that case, the city shall pay to the contractors the excess of over one-half the value of the property. And it is also further provided that all improvements ordered to be made at the expense of the property owners shall, to the extent made and when paid for, exempt said property from any special liability thereafter for the costs of keeping said improvements in repair, except in cases of repairing sidewalks. The city council shall have the same power and authority to cause the construction and repair of sidewalks at the expense of the owners of property in front of the same that is given herein to enforce the improvement of streets, alleys, avenues and lanes. The sidewalks may be ordered to be repaired from time to time as the council shall deem it necessary, at the expense of lot owners, under [the] same regulations provided in cases of original improvement of streets, and a like lien shall attach in favor of the contractor for doing the work, and the same remedies are given, as are provided in cases of improvements of streets. And it is further provided, that any lot owner upon a street shall be allowed the privilege of keeping in repair the sidewalk in front of his lot, provided the same be done in the manner and with such materials as the city council may direct: *Provided*, that before the said council shall be authorized to improve any street at the expense of the lot owner within said city, the majority of the owners of lots on such streets proposed to be improved shall petition the said council to make said improvement, and they may make improvement on any part of a street, if a majority of the owners of lots abutting said street, that is to say, fronting on said part of the street proposed to be improved, shall petition said council to make said improvement.

SEC. 27. The city council shall also have power and authority to pass ordinances to require the improvment by grading or otherwise of any street or streets now established, or hereafter to be established, within the limits of said city, and pay the cost of same out of [the] city treasury, provided such improvement is deemed by the council of general interest and importance to the city at large, and that the condition of the property fronting on said street proposed to be improved will not, in the judgment of the council, justify the making of such improvements at the expense of the owners of said property.

SEC. 28. That whenever in the judgment of the city council it shall become necessary or expedient to build a city hall in said city for city court room, council chamber, and offices for the city officers, and for such other purposes as they may desire to use the same, the said council is hereby empowered to build the same; and to enable

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them to do so, they are authorized and empowered to issue the bonds of the city, in such denominations as they may deem proper, not exceeding one thousand dollars each, one of which bonds shall become due and payable each year, except that the first bond shall not be due for two years from date of issue; and said bonds shall bear interest at a rate not exceeding ten per cent per annum, payable semi-annually, and none of said bonds shall be issued to run for a longer period than fifteen years, and the entire amount for which bonds may be issued shall not exceed the sum of fifteen thousand dollars. Said bonds shall be issued on the credit of the city, with semi-annual interest bearing coupons attached; and said bonds shall be redeemable at the pleasure of the city, and shall be dated on the day of their issue. They shall be in such form as the city council may direct: they shall be signed by the clerk of the council and countersigned by the mayor: they shall be sealed with the seal in use by the city; and each coupon shall be signed and sealed as aforesaid. Each bond issued shall be registered by the clerk of the council in a book to be provided for that purpose, and such registration shall show the number and amount of each bond, when and to whom issued, and when due; and the faith of said city is hereby pledged for the payment of the principal and interest of said bonds; and the owners and holders of the same shall have a lien on said building, and the lot or lots on which the same is erected, for the payment of said bonds and coupons. For the purpose of carrying into effect the provisions of this section the said council are [is] authorized to have said bonds and coupons attached printed, engraved, or lithographed, and pay therefor out of any money in the treasury of said city not otherwise appropriated. Said city council shall, whenever it becomes necessary, order the sale of the bonds provided for in this section, and said sale shall be in such manner and by such persons as the said council may direct. Such bonds, and the coupons attached, shall be payable at the office of the treasurer of said city, and the treasurer shall not pay any coupons detached from the bond by any other person than himself. The proceeds of the sale of said bonds shall be paid into the city treasury to the credit of the city hall fund, and shall immediately become available for the purpose of carrying into effect the provisions of this section. The treasurer shall, in the register herein required to be kept, keep an account of the number and amount, the date, when and to whom issued, and when and from whom redeemed, of all bonds and coupons redeemed or paid by him; and said treasurer shall write with red ink across the face of all bonds or coupons redeemed by him the word "Redeemed," with the date of such redemption, and shall subscribe his name thereto, and shall at the next meeting of the council present said redeemed bonds and coupons, or either, to the mayor, in open council, and the mayor

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shall, in the presence of the council, by burning, destroy the same. The council shall prescribe by ordinance for contracting for the building and the superintendence of the construction of said city hall. In order to provide for the payment of said bonds, and the annual accruing interest thereon, the said city council is hereby permitted and authorized to levy annually an ad valorem tax upon the taxable property of said city at a rate which will be sufficient, and no more than will be sufficient, to pay the bonds as they fall due, and to pay the interest bearing coupons as they may become due in each year. But before said city council shall issue any bonds, or provide for the construction of said building, they shall pass an ordinance distinctly submitting the question as to whether or not they shall incur said debt to the qualified voters of said city. The time and manner of submitting said question shall be prescribed by city ordinance. All necessary cost of submitting the question shall be paid out of any funds in the city treasury not otherwise appropriated.

EXECUTIVE DEPARTMENT.

SEC. 29. The supreme and executive power of the city of Missoula shall be vested in a chief magistrate, who shall be styled the mayor of the city of Missoula, and who shall be elected by the qualified voters of the city for the term of one year, and until his successor is duly elected and qualified. No person shall be eligible to the office of mayor who is ineligible of [to] the office of alderman, except as to his residence in any particular ward of the city. Said election shall be held on the second Monday in April, 1885, and annually thereafter.

SEC. 30. The mayor shall be the head of the police of the city and may command them in the performance of executive duties. He shall be a conservator of the public peace, and, when deemed necessary by him to enforce the laws of the city, or to save life or property, or to quell riots or mobs, he may summon in service any of the citizens; and the council shall by ordinance prescribe suitable fines and penalties for disobedience of the mayor's orders or summons. He shall see that the laws and ordinances of the city are enforced and observed, and are duly executed.

SEC. 31. The mayor shall preside at all meetings of the council, decide all points of order, and shall have the same power, during the sessions, to enforce good order and decorum, and to punish contempts, that judges of the courts of Missoula county have during the sessions of courts. He may require information in writing

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from all officers of the city upon any subject relating to the duties of their respective offices.

SEC. 32. He shall from time to time give to the city council information of the state and condition of the corporation, and recommend to their consideration such measures as he may deem expedient. He shall perform and discharge such other duties as may be prescribed by ordinance not inconsistent with this act. He may call special sessions of the council whenever, in his judgment, it may be deemed necessary, or be to the interest of the city to do so. He shall give the casting vote whenever the council may be equally divided on any question or ordinance not requiring a larger vote than a majority of the members present.

SEC. 33. In case of death, resignation, removal from office, or inability or refusal to act, or absence of the mayor from Missoula, the council shall elect one of their number mayor *pro tem*, who shall exercise the power and discharge the duties of mayor, during the absence of the mayor from Missoula, or until the disability be removed, or a new mayor shall be elected and qualified; and in case the mayor is absent from the meetings of the council, but in the city, the council shall elect from their own body a presiding officer, but who shall exercise none of the other powers of mayor.

SEC. 34. Every proposed ordinance which has passed the council shall be presented to the mayor, and if he approves the same he shall sign it, and it shall then become an ordinance, but if he disapproves it he shall return it to the council, with his objections, in writing, which shall be entered at large upon the journal, and the council shall proceed to reconsider the proposed ordinance; and if it is then adopted by a majority of all members of the council elected it shall then be an ordinance, the mayor's veto to the contrary notwithstanding; and in such cases the vote shall be taken by yeas and nays, and recorded in the journal. And if the mayor shall hold up a proposed ordinance beyond the next regular meeting of the council it shall be an ordinance as though signed by him.

SEC. 35. The mayor shall have power to fill vacancies in any of the executive offices in the city by appointment, and with the consent of the council, and with its advice, all necessary policemen and watchmen, except city marshal; and he may, in case of emergency, appoint supernumerary policemen without the advice or consent of the council, to serve not longer than to the next meeting of the city

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council thereafter; and all watchmen and policemen thus appointed may be removed at the pleasure of the mayor.

SEC. 36. No mayor or alderman of said city shall, during the period for which he is elected, be directly or indirectly pecuniarily interested in any contract let or to be let under the authority of said city, or in any payment to be made thereon; and if any such person shall violate the provisions of this section he shall be deemed guilty of a misdemeanor, and shall be prosecuted therefor in the district court of Missoula county, and, on conviction, shall be fined in any sum not less than two hundred and fifty dollars, and not more than six hundred dollars, or imprisoned three months, or both so fined and imprisoned. And in all contracts involving the expenditure of one hundred dollars or more, the council shall advertise the same, with specifications, for a period to be prescribed by ordinance, and award the same to the lowest responsible bidder.

THE JUDICIAL DEPARTMENT.

SEC. 37. The judicial powers of the corporation shall be vested in and exercised by a court, to be styled the "Missoula city court," which shall be held by a single judge, to be styled the "judge of the Missoula city court," and who shall be elected by the qualified voters of the city, on the second Monday in April, 1885, and annually thereafter on said Monday, and who shall hold his office for the term of one year, and until his successor is elected and qualified.

SEC. 38. When from any cause the judge of the Missoula city court fails to attend, or, if in attendance, cannot properly preside, or is a party to any proceedings in said court, or has been arrested, and is the party for trial for a violation of any ordinance of said city, it shall be the duty of the mayor, when notified by the marshal of the failure or inability of the judge to preside, to attend said court, and preside, and he is hereby invested with all the powers of the judge in the exercise of the duties herein and hereby imposed.

SEC. 39. Said court shall have exclusive original jurisdiction in all proceedings or prosecutions for violation of ordinances of the city, and of all cases of vagrancy arising within the city limits. He shall be a conservator of public peace, and may order arrests for all offenses committed against the ordinances of said city, and for those committed within his presence, and may order the arrest, without warrant, of the person offending, to be dealt with according to the ordinances of said city.

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SEC. 40. [In] all cases in which a fine is assessed as a punishment for a violation of any ordinance of said city, the person convicted shall stand committed to the city jail for the full amount of fine and costs until the same be paid; *Provided*, that said offenders shall not be confined for a longer period than the number of days of said confinement which at two dollars per day will amount to as much as the full amount of fine and costs.

SEC. 41. Appeals shall lie from the Missoula city court to the district court in all cases when by existing laws an appeal would lie from the judgment of a court of any justice of the peace in case of similar fine; but in all cases, in granting the appeal, the judge of the city court shall be governed by the general laws regulating the taking of appeals in criminal and penal cases to the district courts, from the courts of justices of the peace.

SEC. 42. In all cases where parties convicted of having violated any of the ordinances of said city, and an order of commitment has been made, the court shall enter up an order, a copy of which shall be delivered to the keeper of the city jail, that said offender shall be placed at work upon the public works of the city, or upon the streets and alleys of the city, or the judge may direct that said convict be placed upon any work within the city by which the city may be benefited; or, if said convict be a female, or a person unable to do physical labor, that he or she may be confined till the same be paid as hereinbefore provided.

SEC. 43. The judge of the city court shall perform such other duties as may be prescribed by ordinance, and shall receive for his services such compensation as shall be fixed by ordinance.

MINISTERIAL DEPARTMENT.—OF CITY ATTORNEY.

SEC. 44. It shall be the duty of the city council, immediately after the election of city officers, that is to say, at the first regular meeting, or as soon thereafter as they may conveniently do so, to appoint some regular practicing attorney of the city of Missoula, who has been a resident of said city for the period of six months, and who is of good moral character, to prosecute all offenders for violating any of the ordinances of said city. Said attorney shall also be the city treasurer and tax collector of said city, and for his services he may receive such compensation as the council shall fix by ordinance.

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SEC. 45. It shall be his duty, as city treasurer, to receive and safely keep all money belonging to the city, and pay out the same under appropriations made by the city council, and he shall only pay out money upon warrants drawn by the council clerk, and countersigned by the mayor, said warrant designating out of what fund the same is to be paid. He shall keep a fair and accurate account of all receipts and expenditures of the city, showing where from, to whom, and for what purpose, and on what account such money was paid out; and he shall, at such time as may be prescribed by ordinance, make full reports of the receipts and expenditures of the city, showing from whom money was received, from what source, and to whom paid, and on what account, during the time since his last report, and of the state and condition of the treasury. His last report, which shall be made at the last meeting of the council during his term, shall show the whole amount of receipts and disbursements of money for the whole year. He shall perform such other duties as may be prescribed by ordinance. He shall execute covenant to the city of Missoula, with good and sufficient sureties, to be approved by the city council, conditioned for the faithful performance of all his duties as city treasurer.

SEC. 46. If he fails to execute covenant within twenty days after his appointment the office shall be declared vacant by order of the council, and a new appointment made.

SEC. 47. For every malfeasance in office, or any omission or willful neglect of duty, the treasurer may be removed from office by the council, and another appointed in his stead.

SEC. 48. The city council may at any time during his term of office require the treasurer to execute a new bond, or give such additional security on the old one, as they may think proper, and upon his failure to give such new bond, or additional security on the old one, the office may be declared vacant by the council, and be filled by another appointment; and he shall upon the expiration of his term of office, or upon his removal or resignation, deliver to his successor, or to such person as the council may direct, all the public moneys, books, papers, property, and effects belonging to the city of Missoula.

SEC. 49. The city attorney shall also be the city collector, who shall collect all taxes levied or to be levied upon the taxable property of the city of Missoula, and all licenses and special levies of taxes ordered or levied or imposed by said city council. He shall issue all licenses required by the city council, or by any ordinance

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of said city, and collect the license fee or tax therefor. Any person who shall fail to pay his ad valorem taxes levied under this act, on or before the first day of January in each year, he shall be required to pay ten per cent upon the full amount of his said tax, as a penalty for such failure.

SEC. 50. That it shall be his duty, within twenty days after his appointment, to execute covenant to the said city, with good and sufficient securities, to be approved by the council, conditioned for the faithful performance of his duties as said collector; and he shall, as soon as any sums of money shall be collected, belonging to said city, charge himself, as treasurer, therewith, in a book to be kept for that purpose, and if he shall fail to do this he shall be liable on his bond as collector in the event of any loss to the city by reason thereof; and he shall, when required by the council, give such additional security on his old bond, or an entirely new bond, as may seem to [for] the safety and welfare of the city to require.

SEC. 51. At the time of the appointment of the city attorney, aforesaid, it shall be the duty of the said city council to appoint a marshal for said city, who shall hold his office one year, unless sooner removed by the council. No person shall be eligible to the office of marshal who is not, at the time of his appointment, twenty-one years of age, and who has not been a resident of said city for six months previous to his appointment, and is a man of good moral character.

SEC. 52. It shall be the duty of the city marshal to attend all meetings of the council, and to attend all sessions of the city court; and he shall, within the limits of the city, or elsewhere in Hell Gate township, in all matters of a criminal or penal nature, arising under the ordinances of said city, possess the same powers as a sheriff or constable. He shall execute all processes issued and directed to him by the mayor of the city, the city judge, or the city court, and he shall be entitled to such compensation as may be prescribed by ordinance. He shall perform such other duties as may be hereafter provided by this act, and prescribed by the ordinances of said city.

SEC. 53. He shall also be the assessor for said city, and as such it shall be his duty to assess at a fair cash valuation all the property within the city limits subject to taxation under this charter against each owner thereof, owned by him at the time of such assessment. He shall make all assessments each year between the first day of August and the first day of October; and it shall be the duty of said assessor to assess all male citizens in said city able to labor,

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between the ages of twenty-one and forty-five years, for street tax, and it shall be the duty of the tax collector to collect from each person so assessed a tax of two dollars and fifty cents for street purposes; but such persons so liable for street tax at the time of said assessment may signify to the assessor his willingness to work out said tax on the streets of the city, and if he shall so signify, he shall be placed at work on any street, alley, or other work of the city, under the supervision of the marshal, for one day; and if he fail to work, or pay said tax when demanded by the tax collector, in writing, through the postoffice, he shall, upon complaint filed by the marshal or collector in the city court, be fined in the sum of two dollars and fifty cents, and the costs, and stand committed till the fine and costs be paid.

SEC. 54. It shall be the duty of said assessor to make the assessment of the city in the same manner as the county assessor is required to do in making the assessment of the county. It shall be the duty of said assessor to make a complete book of assessment showing the names of all persons assessed, in alphabetical order, and a brief description of the property assessed, and the separate and aggregate value thereof, against each owner; and it shall be the further and especial duty of said assessor in assessing the real estate in said city to give the name of each owner, as aforesaid, and describe each and every lot, block, and piece of ground owned by him or her which shall be assessed. Said assessor shall fix the value of all property assessed by him, and the aggregate value of each person's whole estate assessed; and said assessor shall return his lists of assessment, and the book herein required, to the clerk's office of the city council, with the whole assessment completed, on or before the first day of October of each year.

SEC. 55. That after said assessor shall have returned his said lists, and the book aforesaid, to the clerk of the city council, and the same shall have been revised by the council acting and sitting as a board of supervisors, as hereinafter provided, and the same shall be by order or resolution of the council received and ordered to be filed, said assessor's lists and books shall become and be a public record in the office of said clerk, and after said council shall have fixed by order or resolution the rate of ad valorem tax upon all taxable property of the city, the same, together with the road or street tax aforesaid, when placed in the hands of the city collector, shall be a perpetual lien upon the property of the tax payers, respectively, until the same be fully paid.

SEC. 56. That said city marshal shall also be street commissioner, and as such shall perform such duties as may be prescribed

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by ordinance. Said city marshal, assessor, and street commissioner shall give such bond, covenant, or undertaking as the city council may prescribe, and shall receive such compensation as may be prescribed by ordinance.

CITY COUNCIL CLERK.

SEC. 57. At the time of appointing the other officers provided for by this act, the city council shall appoint a clerk, who shall be styled the clerk of the city council of Missoula, who shall hold his office for one year, and until his successor is appointed and qualified. No person shall be eligible to the office of clerk who is not twenty-one years of age, and has been a resident of the city of Missoula for six months prior to his qualification. He shall be required to give covenant to the city of Missoula, with good security, to be approved by the council, for the faithful discharge of the duties of his office.

SEC. 58. It shall be the duty of the clerk to keep a fair and correct record of the proceedings of the council, and of such other matters as may be directed by the council. It shall be his duty to post in three public and conspicuous places in the city all or each ordinance passed by the council which is approved by the mayor, and such others as become ordinances without his approval; to prepare papers and copies from his office for publication; to keep and preserve in his office the seal of the city, the records and papers of the city not properly belonging to any other office; to make out a poll book for each ward in the city before the day of each election in such wards. He shall prepare and make ready for the signature of the mayor all orders on the treasury, and perform all other duties required of him by order or ordinance of the council and this charter. That upon application of any person to the clerk of the council he may obtain from him a copy of any paper or record in his office, paying to the said clerk his fee therefor, which copy attest by the clerk shall be evidence in all the courts of this territory. The clerk shall be entitled to charge and shall receive such fees as are by law allowed to clerks of courts for similar services, and he is hereby given the same remedies for the enforcement of the payment thereof as is given by existing laws to clerks of courts in similar cases. He shall prepare and deliver to the tax collector the tax book of the city, and perform such other duties as may be prescribed by ordinance. Said city clerk shall also be auditor of said city, whose powers and duties and compensations shall be prescribed and fixed by ordinance.

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SUPERVISORS OF TAX BOOKS.

SEC. 59. The city council, within five days after the return of the tax lists and books as herein provided for, shall, at such time as they may choose, meet in the council chamber and examine with care the assessor's report of the taxable property returned for the year, and correct any error of the assessor, whether in fact or in relation to the valuation of estate listed; and in cases where they shall be of opinion that the estate has been incorrectly valued, to fix the same at its proper value; but they shall not increase the valuation made by the assessor without summoning the owner or owners, if residing in the city, to appear before them to show cause why the change should not be made. It shall be the duty of the assessor to attend the sessions of the board of supervisors of tax, and give evidence and information concerning the business before them, upon oath, if required. They shall immediately after the supervision of the tax books aforesaid fix the levy to be collected in the fiscal year for which said assessment is made. The clerk of the council shall keep a correct record of their proceedings, and immediately after they shall have concluded said work it shall be the duty of said clerk to make out a tax book, showing the assessed value of each tax payer's real and personal property, and the amount of tax due from each, and deliver the same to the tax collector, taking his receipt therefor.

SEC. 60. The council shall have power, at any time within two months after the supervision of the tax list aforesaid, to hear complaints, and to change, reduce, or correct the tax list of any person, and in case of reduction, if the taxes have been paid, to order the proper proportion thereof to be refunded.

CITY SURVEYOR.

SEC. 61. The city council, at the time fixed for the appointment of the other city officers, shall appoint a city surveyor. He shall not be required to be a resident of said city; he shall hold his office one year, and until his successor shall be appointed and qualified; his duties and compensation shall be prescribed by ordinance, as well as the manner of his qualification.

OFFICERS OF ELECTION.

SEC. 62. The city council shall, at their regular meeting in March, each year, appoint suitable persons as officers of the election in each ward in the city, two persons as judges, one person as

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marshal, and one person as clerk, who shall hold their offices for one year, and if practicable the officers for each voting place shall be selected in equal numbers from the political parties, and they shall provide by ordinance for selection of officers of election in case the officers appointed shall from any cause fail to act. No person shall be appointed or act as an officer of election who shall not be a qualified voter in the ward for which he is appointed. The council shall by ordinance prescribe the duties and compensation of officers of election.

ELECTIONS.

SEC. 63. All elections under this act shall be by ballot, and shall be held between the hours of seven in the morning and six o'clock in the evening.

SEC. 64. Every male citizen of the United States, and those who have declared their intention to become such, and who are over the age of twenty-one years, and who nave resided within the said city for six months, and within the ward where he shall offer to vote for thirty days, and shall present to the officers of the election a tax receipt showing payment of taxes for the fiscal year in which he proposed to vote, or one whom the officers shall know to be a tax payer, or one who will swear that he has paid his taxes for said fiscal year, shall be a qualified voter within said city in said city elections.

SEC. 65. The city council shall prescribe by ordinance the manner of counting and preserving the ballots, ballot boxes, and poll books. They shall require when and by whom they shall be returned to the council clerk. They shall, within three days after an election held in said city, meet in the council chamber and compare the vote and announce the result of said election. If any member of the council shall have [been] a candidate at said election he shall have no voice in the decision of his own case. If from any cause two of said council cannot act, then the city judge and city attorney shall be called to act in the place of those who cannot act; and when the result has been ascertained it shall be the duty of the council to direct the clerk of the council to issue certificates of election to those who have received the highest number of votes for the officer voted for at said election.

SEC. 66. All officers of the city, either elected or appointed, shall, before they enter upon the execution of the duties of their respective offices, take and subscribe the following oath, which may

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be administered by any person authorized by law to administer oaths:

I (giving name) do solemnly swear (or affirm) that I will support the constitution of the United States and the organic act of this territory, and be faithful and true to the same so long as I continue a citizen thereof, and that I will faithfully perform the duties of the office of (naming office) to the best of my skill and ability; and that I will do what I can to advance the interest of the city of Missoula. So help me God.

SEC. 67. All ordinances or parts thereof of the present town of Missoula now in force, not in conflict with this charter, shall continue in force until repealed by the city council. And all ordinances passed by the city council to which the seal of the town of Missoula, or a seal which may hereafter be procured by the city council of Missoula, is attached, and regularly posted in three public places in said city, or which shall be published in a newspaper in said city for one week, or published in book or pamphlet form, shall be valid and binding, provided the same shall not be repugnant to the constitution of the United States, the organic act of this territory, or this charter.

SEC. 68. Nothing contained in this charter shall be construed to prevent any person from exercising the duties of any office, and receiving the salaries and emoluments accruing therefrom, which he may now hold under the charter of the town of Missoula until his term of office shall expire. In all other respects, except as hereinbefore provided, the said charter of the said town of Missoula, entitled "An act to incorporate the town of Missoula," approved March 8, 1883, be and the same is hereby repealed.

SEC. 69. That before this act shall be enforced, or shall take effect, the same shall be submitted to the qualified voters of the town of Missoula, on or before the first Monday in April, 1885. Said election shall be held at the county court house in said town; and the present town council shall order said election, and have notices posted or published of the time and place of holding said election. Said election shall be by printed ballots, to be provided by the council, and, in equal numbers, shall contain the words "For the city charter" and "Against the city charter;" and on the night of the said first Monday in April said council shall compare the vote and announce the result; and if it appear that a majority of the qualified voters of said town voting at said election have voted

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for said charter, then this act shall go immediately into effect, and be in full force thereafter; and if it appear that a majority of said voters who have voted at said election have voted against said city charter, then this act shall be void and of no effect; and if said majority vote against said city charter, then the present charter of the town of Missoula, approved March 8, 1883, [shall] continue in force as the act of incorporation of the town of Missoula.

Approved March 12, 1885.

AN ACT to authorize the school trustees of district No 1, Deer Lodge county, to issue bonds for certain purposes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. The board of school trustees of school district No. 1, of Deer Lodge county, shall, whenever a majority of said board shall so decide, submit to the electors of said district, who are property tax payers, the question whether said board shall be authorized to issue coupon bonds, in addition to the bonds now outstanding, to an amount not to exceed twenty thousand dollars, and to bear interest at a rate not to exceed eight per cent per annum, and to be issued in such sums, and payable and redeemable at such times, both principal and interest, as said board may designate in said bonds, for the purpose of completing the public school building in said school district now in course of construction, and of paying any indebtedness heretofore incurred in its construction for which bonds have not been issued.

SEC. 2. Such election shall be held in the manner prescribed by section 1133 of the fifth division of the revised statutes of Montana. The ballots shall contain the words "Bonds, Yes," or "Bonds, No," but the qualification of voters at such election shall be those only who were assessed for the last fiscal year on real or personal property, or who may have property, real or personal, subject to taxation at the time of such election. If a majority of the votes cast at such election are "Bonds, Yes," the board of trustees shall issue such bonds in such form as the board may direct, and shall have the signatures of the chairman of said board of trustees, and shall be countersigned by the clerk of said district; and the coupons attached to the bonds shall be signed by said chairman and clerk; and each bond so issued shall be registered by the county treasurer

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in a book provided for that purpose, and which shall show the number and amount of each bond, and the person to whom issued, and the date of payment thereof; and said bonds shall be sold by said trustees in the manner hereinafter provided.

SEC. 3. The said trustees shall give notice, by advertisement in some newspaper published in Deer Lodge county, for a period of not less than four weeks, to the effect that they will sell said bonds, briefly describing them, and stating the time and place when such sale will take place; or they may reject all bids, and sell said bonds at private sale, if they deem it to the best interest of said district: *Provided*, that no sale of any of such bonds shall be made at either public or private sale at such price as not to realize and net to said district the par value thereof; and if any trustee shall sell any of such bonds for a price which will not realize their par value, as above stated, said trustees, or either of them participating in such sale, shall be personally liable to said district for the difference between the sum realized for such bonds and the par value thereof, and an action therefor may be maintained at the instance of any property tax payer in the name of said school district. And all money [arising] from the sale of any such bonds shall be forthwith paid into the county treasury of the said county for the uses and purposes of this act.

SEC. 4. That instead of a sale of any of said bonds for the purpose of paying any indebtedness now existing and accrued in the construction of said building, it shall be lawful for said trustees to issue sufficient bonds to the parties to whom such debts are owing, at a par value therefor, in payment thereof, but this section shall apply only to any indebtedness now existing, and not to any further contracts.

SEC. 5. The faith of said school district is solemnly pledged for the payment of the interest and redemption of the principal of the bonds which shall be issued under this act; and for the purpose of enforcing the provisions of this act said school district shall be a body corporate, and may sue and be sued by and in the name of the board of school trustees of said district.

SEC. 6. The trustees of said district shall ascertain and levy, annually, the tax necessary to pay the interest when it becomes due, and a sinking fund to redeem the bonds at their maturity, and said tax shall become a lien upon the property in said school district, and be collected in the same manner as other taxes for school purposes.

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SEC. 7. That sections 6, 7, 8, and 9, of an act of the legislative assembly of Montana territory, entitled "An act to authorize school trustees to issue bonds to build or provide school houses," approved March 2, 1883, so far as said sections are applicable to this act, are hereby re-enacted and made a part of this act, but said section 7 shall not be so construed as to authorize said trustees to use any of the money in the hands of the county treasurer, which was levied and collected for the purpose of maintaining and carrying on the public schools, for the purpose of paying any interest or principal of any bonds issued for the purpose of building any school house.

SEC. 8. In case the majority of votes cast be in favor of issuing bonds to complete said building, then said trustees shall advertise for bids for the completion thereof, and said building shall be completed under a contract to the lowest bidder; and said contract shall be made so as to require a completion thereof before any payments shall be made thereon; and said contract shall be let subject to the contingency of the ability of said trustees to dispose of bonds, and procure the necessary money for its completion.

SEC. 9. That the order of the board of commissioners of Deer Lodge county, made on the eleventh day of August, 1883, vacating and closing up the alley-way through block number thirty-two of the town of Deer Lodge, in Deer Lodge county, is hereby ratified and confirmed, and declared to be legal and valid, and the said alley running through said block thirty-two is hereby declared vacated.

Approved February 13, 1885.

AN ACT to enable school district number one of Missoula county to build a school house at Corvallis.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the trustees of school district number one (1) in the county of Missoula, in the territory of Montana, are hereby authorized and empowered to issue coupon bonds of said school district to an amount not to exceed five thousand dollars for the purpose of erecting necessary school buildings sufficient for school purposes at Corvallis, upon a site to be selected by said trustees, and to furnish the same with necessary and complete fixtures and appointments.

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SEC. 2. Said bonds shall be of the denomination of five hundred ($500) dollars each, shall be signed by the chairman, and countersigned by the clerk of said district, and shall be registered by the treasurer of said county in such manner as to show the number of each bond, and to whom the same may be issued; and to this end said trustees shall cause said bonds to be lithographed, and pay for the same out of any moneys in the county treasury to the credit of said school district.

SEC. 3. Said bonds shall become due and payable in fifteen years from their date, and redeemable after ten years from date at the pleasure of said trustees, and shall bear interest at a rate not exceeding seven per cent per annum, payable semi-annually. They shall be sold by said trustees, or their fiscal agents, for not less than par; and all moneys arising from such sale shall be paid into the county treasury of said county, and be credited to the school district aforesaid, and be immediately applicable to the purposes of this act.

SEC. 4. The school trustees aforesaid shall ascertain and levy annually a tax sufficient to pay the current interest charged upon said bonds, and provide a sinking fund to redeem the same at maturity. Such tax shall be collected as are other taxes, and shall be a lien upon all property of said school district; and all moneys arising from said tax shall by [the] treasurer of said county be passed to the credit of said school district, and shall be applicable only to the payment of the interest and principal of said bonds.

SEC. 5. If after ten years from date of said bonds there shall be in said fund, after the payment of the annual interest as aforesaid, money sufficient to pay one or more of said bonds, the county treasurer shall call in the same in the order of registration, by posting a public notice in his office that he will so redeem said bonds in thirty days from the date of such notice, giving the number of the bonds he is prepared to redeem. If at the expiration of said thirty days the bonds called shall not be presented for payment, interest thereon shall cease; but the treasurer shall thereafter be ready to pay the same upon presentation. Upon redemption of any bond the treasurer shall concel the same by writing across the face thereof the word "Redeemed," and date of redemption.

SEC. 6. The interest upon said bonds shall be paid upon presentation of coupons thereof; and all payments of interest and redemption of bonds shall be reported to said trustees at their first meeting thereafter by the treasurer, who shall exhibit the coupons so paid and the bonds so redeemed as his vouchers.

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SEC. 7. Before entering upon the duties prescribed by this act the school trustees of said school district shall take and subscribe an oath, and enter into a bond in the sum of ten thousand dollars, with two or more qualified sureties, to be approved by the board of county commissioners of said county, that they will faithfully perform the duties resting upon them under this act. Said oath and bond shall be filed in the office of the treasurer of said county. If said trustees, or either of them, shall fail or refuse to pay into the county treasury the moneys arising from the capitalization of said bonds, they or either of them shall be guilty of a felony, and, upon conviction thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding ten years, in the discretion of the court.

SEC. 8. This act shall not be construed to allow the treasurer of said county any other compensation than that now provided by law: *Provided*, that he shall receive for all services required by this act to be performed by him the sum of fifty dollars, and no more.

SEC. 9. The board of trustees shall invite sealed proposals for the construction of said school buildings, and also for the furnishing of fixtures, and appointments of said buildings, by publication in some newspaper in the county of Missoula, for a period of four weeks, stating in said notice the size and general architectural design thereof, and the date and place where such proposals will be opened. The trustees shall have power to reject any and all proposals so presented: *Provided*, that if any of the proposals so presented are accepted the same shall be that of the lowest responsible bidder.

SEC. 10. This act shall take effect and be in force from and after its passage.

Approved March 12, 1885.

AN ACT to provide for the support and maintenance of the Anaconda fire department.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the county commissioners of Deer Lodge county be and they are hereby authorized to levy a special tax, not to exceed four (4) mills on the dollar of the assessable property within

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the limits of the town of Anaconda, in the county of Deer Lodge, Montana territory, for the support and maintenance of the Anaconda fire department.

SEC. 2. The said county commissioners shall, at their next regular meeting after the passage of this act, levy said tax for the year 1885, and thereafter it shall be levied in the same manner and at the same time as are the general taxes of said county.

SEC. 3. It is hereby made the duty of the county treasurer of Deer Lodge county to collect said tax in the same manner and at the same time as other taxes are collected.

SEC. 4. This tax shall be known as the "Anaconda fire tax," and shall be paid by the county treasurer to the treasurer of the Anaconda fire department.

SEC. 5. The treasurer of said fire department, before any of said tax shall be paid to him, as hereinbefore provided, shall file in the office of the clerk and recorder of Deer Lodge county a bond, executed to the board of county commissioners, with two or more sufficient sureties to be approved by said board of commissioners in such penal sum as they may direct, conditioned that he will faithfully and honestly pay out and disburse all moneys that may be paid by virtue of his office under the order of said fire department.

SEC. 6. It is hereby made the duty of the treasurer of said fire department to make a fair, correct, and complete statement of his receipts and disbursements, as such treasurer, to the board of county commissioners at their meeting in the month of March of each year, or at such time as they may direct.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved March 10, 1885.

AN ACT to provide for the Billings fire department.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the county commissioners of Yellowstone county be and they are hereby authorized to levy a special tax, not to

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exceed three (3) mills for the year 1885, and one (1) mill for each succeeding year, on every dollar of the assessable property, both real and personal, within the limits of the town site of Billings and all additions thereto, for the support and maintenance of the Billings fire department.

SEC. 2. That the said county commissioners shall, at the next regular meeting in March, A. D. 1885, levy said tax for the year 1885, and thereafter it shall be levied in the same manner and at the same time as are the general taxes of the said county.

SEC. 3. It is hereby made the duty of the county treasurer of Yellowstone county to collect said tax in the same manner and at the same time as other taxes are collected.

SEC. 4. This tax shall be known as the "Billings fire tax," and shall be paid by the county treasurer to the order of the treasurer of the Billings fire department as audited by the county commissioners, and shall become due.

SEC. 5. That the treasurer of said fire department, before any of said tax shall be paid to him, as hereinbefore provided, shall file in the office of the county clerk of Yellowstone county a bond, executed to the board of county commissioners, with two or more sufficient sureties, to be approved by said board of commissioners, in such penal sum as they may direct, conditioned that he will faithfully and honestly pay out and disburse all moneys that may be paid by virtue of his office under the order of said fire department.

SEC. 6. It is hereby made the duty of the treasurer of said fire department to make a fair, correct, and complete statement of his receipts and expenditures, as such treasurer, to the board of county commissioners at their annual meeting, or at such times as they may direct.

Approved February 3, 1885.

AN ACT to provide for the support and maintenance of the Philipsburg fire department.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the county commissioners of Deer Lodge county be and they are hereby authorized to levy a special tax of, and not to

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exceed, two (2) mills on the dollar of assessable property within the limits of the fire district defined in section 7 of this act for the support and maintenance of the Philipsburg fire department.

SEC. 2. That the said county commissioners shall, at their next regular meeting after the passage of this act, levy said tax for the year 1885, and thereafter it shall be levied in the same manner and at the same time as are the general taxes of said county.

SEC. 3. It is hereby made the duty of the county treasurer of Deer Lodge county to collect said tax in the same manner and at the same time as other taxes are collected.

SEC. 4. This tax shall be known as the Philipsburg fire tax, and shall be paid by the county treasurer to the treasurer of the Philipsburg fire association.

SEC. 5. That the treasurer of said fire association, before any of said tax shall be paid to him, as hereinbefore provided, shall file in the office of the clerk and recorder of Deer Lodge county a bond, executed to the board of county commissioners, with two or more sufficient sureties, to be approved by said board of commissioners, in such penal sum as they may direct, conditioned that he will faithfully and honestly pay out and disburse all moneys that may be paid by virtue of his office under the order of said fire association.

SEC. 6. It is hereby made the duty of the treasurer of said fire association to make a fair, correct, and complete statement of his receipts and disbursements, as such treasurer, to the board of commissioners at their annual meeting, or at such time as they may direct.

SEC. 7. That the limits of the Philipsburg fire district extend from the intersection of Main and Broadway streets, in Philipsburg township, one-half mile west; from the same point of intersection, south one-half (½) mile; from the same point of intersection, east one-half (½) mile; from the same point of intersection, north boundary of township line.

SEC. 8. All acts and parts of acts, in conflict with this act, are hereby repealed.

Approved February 27, 1885.

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AN ACT for the construction of the Thompson's Falls and Murrayville wagon road.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the county commissioners of Missoula county be and they are hereby authorized, in their discretion, to levy a special tax of not exceeding two mills for the year 1885, on the assessable property, both real and personal, of the said county of Missoula, for the construction of a wagon road from Thompson's Falls, in said county, to the summit of the Cœur d'Alene mountains, at the boundary between the territories of Idaho and Montana, in the direction of the town of Murrayville, in the territory of Idaho, by the best and most practicable route.

SEC. 2. That the said board of county commissioners may, in their discretion, at their next regular meeting in June, 1885, levy said tax for the year 1885 as are levied the general taxes of said county.

SEC. 3. It is hereby made the duty of the county treasurer of Missoula county to collect said taxes, if so levied, in the same manner and at the same time as the other taxes are collected.

SEC. 4. The county commissioners of Missoula county are hereby authorized, in their discretion, to cause said wagon road to be built and completed by the first day of October, 1885, and if they direct such road to be built in accordance with the provisions of this act, they shall let out to the lowest responsible bidder the construction of said road as a whole or by sections, and shall take ample bonds to secure the faithful performance of the contract or contracts as let, and shall pay the contractor or contractors by warrant or warrants drawn on the county treasurer, and payable out of the funds herein provided for, and due February 15, 1886. Not more than two-thirds of the contract price shall be paid to any contractor or contractors until the completion and personal examination, acceptance, and approval of any contract or contracts so let is made by the county commissioners; and when such work is approved and accepted by said commissioners the balance found due to any contractor or contractors shall be paid by warrant or warrants as herein provided.

SEC. 5. The cost of building said road, the purchase of bridges already constructed, if necessary, the other proper expenses of

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advertising for bids, of inspecting the work, and so forth, shall be paid for only out of the fund created by this act, and the total cost and expenses of building said road shall not exceed the fund raised by the special tax herein provided for. If, after the payment of all costs and expenses as authorized herein, any surplus of said special fund remains unexpended, it shall be transferred to the general fund of the county by the treasurer thereof.

Approved March 12, 1885.

AN ACT to confirm a certain deed made by the president, secretary, and certain of the trustees of the Montana Collegiate Institute, to James R. Russell, Eika J. Groenveldt, and Duncan J. McMillan, and to confirm the title of the College of Montana to certain real estate in the town of Deer Lodge.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That a certain deed executed by the president and secretary, and certain of the trustees of the Montana collegiate institute, of the county of Deer Lodge, to James R. Russell, Eika J. Groenveldt, and Duncan J. McMillan, dated the twenty-fourth day of August, eighteen hundred and eighty-two, and recorded in the office of the recorder of the county of Deer Lodge on the twenty-sixth day of August, eighteen hundred and eighty-two, in book "E" of deeds, on page 16, is hereby legalized, ratified, and confirmed.

SEC. 2. The deed mentioned in the first section of this act, and the various mesne deeds and conveyances made thereunder, whereby the land and premises in said deed described have been conveyed to the college of Montana, are hereby declared to vest the title to said land and premises in fee simple in the said college of Montana.

Approved March 12, 1885.

AN ACT for the relief of Fisk Brothers.

Be it enacted by the Legislative Assembly of the Territory of Montana:

That the sum of one hundred and thirty-six dollars and sixty cents be paid to Fisk Brothers, out of any money in the territorial

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treasury not otherwise appropriated, to reimburse said Fisk Brothers for money paid by them for cuts used in the publication of the marks and brands pamphlets for the years 1883 and 1884; and the territorial auditor is hereby directed to draw his warrant on the territorial treasurer for such sum, payable to said Fisk Brothers.

Approved March 12, 1885.

AN ACT for the relief of Josephus P. Martin.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the board of county commissioners of Gallatin county be and they are hereby authorized to issue warrants of their county in favor of Josephus P. Martin, to an amount not exceeding five hundred dollars, on account for money laid out and expended as probate judge during the year A. D. 1883, incurred in entering, surveying, and platting the town site of Dornix, in said county of Gallatin.

SEC. 2. Said warrants to be paid by the county treasurer in the same manner as other claims against the county.

Approved March 5, 1885.

AN ACT to change the name of James William Hackleman to William Cave.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the name of James William Hackleman, of the county of Missoula, in the territory of Montana, be and the same is hereby changed to William Cave, which he is hereby authorized to assume, and by which he shall hereafter be known.

Approved January 30, 1885.

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AN ACT to change the name of Maggie S. Rohrbaugh to Maggie S. Putnam.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the name of Maggie S. Rohrbaugh, of the county of Jefferson, in the territory of Montana, be and the same is hereby changed to Maggie S. Putnam.

Approved March 12, 1885.

AN ACT to change the name of William Henry Smith to that of William Henry Gavin.

Be it enacted by the Legislative Assembly of the Territory of Montana:

That the name of William Henry Smith be and the same is hereby changed to William Henry Gavin.

Approved March 10, 1885.

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COUNCIL CONCURRENT

AND

JOINT RESOLUTIONS.

Council Concurrent Resolution for the relief of Edmund W. Bach.

Resolved by the Council, the House Concurring:

That the sum of one hundred dollars shall be paid to Edmund W. Bach, out of any money in the territorial treasury not otherwise appropriated, for services as an accountant and expert, assisting the joint special committee appointed to examine the books of the auditor and treasurer; and the territorial auditor is hereby required to draw his warrant in favor of said Edmund W. Bach, for said sum of one hundred dollars.

Approved March 12, 1885.

Council Joint Resolution to pay for marks and brands.

Resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of Montana:

That there be and is hereby appropriated out of the territorial treasury, from any moneys not otherwise appropriated, for the purpose of paying for the manufacture and construction and engraving required by the laws of the territory, under the provisions of chapter VII of article I of the fifth division of the revised statutes of Montana, entitled "General Laws," the sum of ninety-three dollars and ten cents.

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The territorial auditor is hereby directed to draw his warrant on the territorial treasurer for the amount of ninety-three and 10-100 dollars, in favor of George P. Reeves & Co.

Approved March 5, 1885.

Council Joint Resolution for the distribution of statutes.

Be it Resolved by the House of Representatives and Council of the Legislative Assembly of the Territory of Montana:

That one copy of the laws of Montana, revised statutes of 1879, bound with the laws of the extra session of 1879 and twelfth session of 1881, one copy of the laws of the thirteenth session, 1883, and also one copy of the laws of the fourteenth session, 1885, whenever the same shall be in print and bound, shall be distributed to each member of the council and house of the fourteenth session of the Montana legislative assembly.

Approved March 10, 1885.

Council Joint Resolution to defray the expenses of the joint committee visiting the penitentiary and territorial insane asylum.

Be it Resolved by the Legislative Assembly of the Territory of Montana:

That there is hereby appropriated out of the territorial treasury, out of any moneys not otherwise appropriated, the sum of fourteen dollars and fifty cents, in favor of each of the following named persons: F. L. Green, Will Kennedy, H. R. Buck, J. M. Page, G. R. Tingle, W. O. Speer, Martin L. Emigh, and Jesse F. Taylor.

That said named persons served as joint members of a special committee, duly authorized by a joint resolution passed by both the council and house of representatives of the fourteenth legislative assembly, and that fourteen dollars and fifty cents each is the actual amount of expenses necessarily incurred. The territorial auditor is hereby authorized to draw his warrants on the territorial treasurer for the above amount, in favor of each of the above-named persons.

Approved March 10, 1885.

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HOUSE CONCURRENT

AND

JOINT RESOLUTIONS.

House Concurrent Resolution in reference to official maps of Montana.

Resolved by the House, the Council Concurring:

That William P. Snow is authorized to compile and draft, and cause to be lithographed, at his own expense, a map of the territory of Montana, which shall represent all government surveys, so far as they are extended and have been or shall be officially returned to the surveyor general's office of this territory on or before March 1, 1885, the location of all reservations, railroads, county boundaries, cities, towns, and places of public interest; also the rivers, creeks, streams, mountains, mountain ranges, and valleys of this territory; which map, when completed and approved as hereinafter provided, shall be known and may be published by him, at his own expense, as the official map of Montana territory.

Upon the completion of such map, the same shall be submitted to the governor, president of the council, speaker of the house of representatives, superintendent of public instruction, and the United States surveyor general for Montana, and if approved by a majority of them, they shall indorse thereon a certificate of the fact of such approval, which may be published with such maps. Such maps shall not be less than three feet three inches by two feet six inches in size, or of a less scale than fifteen miles to the inch, and shall be printed or lithographed upon a good quality of paper commonly used for such purposes.

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Upon the approval and publication of such map, on or before the first day of January, 1886, the auditor of the territory shall purchase from the said William P. Snow three hundred copies thereof, mounted on cloth, and with rollers, at the price of two dollars per copy, for the use of the territory, to be distributed as hereinafter provided, and shall draw an order on the territorial treasurer, on the delivery at his office, in payment for said maps.

Such maps shall be distributed by the auditor as follows: One each to the governor, secretary, auditor, treasurer, superintendent of public instruction, for the use of their offices; also one copy to each department of the general government, and the secretary of each state and territory of the United States, with request for exchange; one to each county for the use of the county commissioners; one to each school district or school room in the territory now or to be hereafter opened or used as such, to be delivered upon the requisition of the territorial or county superintendent of public schools for the proper county.

The territory shall in no way or manner become liable for the payment of any expenses of making or publishing such maps.

Approved March 12, 1885.

House Joint Resolution for the appointment of committee clerks.

Resolved by the Legislative Assembly of the Territory of Montana:

That the judiciary committee, and the committee of ways and means, of each house are hereby authorized and empowered to employ one clerk for each of said committees, whose duties it shall be to assist the chief clerk and the enrolling and engrossing clerk, and the committees of the two houses, and perform such other duties as may be assigned them; and for such services they shall receive the sum of four dollars per day. And the territorial auditor is authorized and required to issue his warrant on the territorial treasurer for the amounts due said clerks, upon the certificate of the chief clerk and presiding officer of each house.

Approved January 22, 1885.

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House Joint Resolution for the relief of William A. Clark.

Be it Resolved by the Legislative Assembly of the Territory of Montana:

That the sum of ninety-seven dollars be paid to William A. Clark, out of any money in the territorial treasury not otherwise appropriated, to reimburse said Clark for money paid by him to pay postage on the constitution of Montana and address to voters, mailed to voters of Montana by the secretary of Montana; and the territorial auditor is hereby directed to draw his warrant on the territorial treasurer for such sum, payable to said William A. Clark.

Approved January 23, 1885.

House Joint Resolution to provide for the expenses of the Montana exhibit at the World's Fair and Cotton Centennial Exposition, now in progress at New Orleans.

Be it Resolved by the House of Representatives of the Territory of Montana, the Council Concurring:

That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated to defray the expenses of the Montana exhibit at the World's Exposition now in progress at New Orleans, to be expended under the joint care and responsibility of Gen. John S. Harris and William A. Clark, commissioners of Montana, said sum to be in full for all expenses heretofore incurred in connection with said exhibit, whether for salaries of employes, printing pamphlets, or otherwise, as well as for any further expenditures that may be necessary in the further progress of said exposition; and the territorial auditor is hereby directed to draw his warrant upon the treasury for the whole or any part of this appropriation, upon the order of the aforesaid commissioners, and their filing vouchers therefor.

Approved January 23, 1885.

House Joint Resolution in relation to cattle diseases and national cattle trail.

WHEREAS, it is an acknowledged fact that contagious pleuro pneumonia, or lung plague, does exist and has existed for years in

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herds of cattle in some of the states, in spite of partial attempts to stamp it out; and

WHEREAS, the existence of this dread disease is a constant source of danger to the great cattle interests of the United States, and more particularly to the western states and territories, where millions of cattle in a half wild condition graze upon the hardy and nutritious grasses that clothe these vast arid and semi-arid regions, and where the very fact of these cattle being in a half wild state, and roaming at will over large areas, would render it utterly impossible to so control them as to enable those communities to stamp out or eradicate this or any other contagious disease, when once introduced; therefore,

Resolved by the Legislative Assembly of the Territory of Montana:

That above all other questions this interest requires most careful investigation and protection, and that we consider it imperatively necessary that our territorial government should provide every means and method in its power for detecting and stamping out of any contagious disease on its first appearance in our territory; and further, that we must earnestly request congress to provide such ample and practicable quarantine regulations as will guarantee the complete suppression of any and all contagious diseases in every locality in the United States; and

Resolved, that congress should empower the president of the United States to quarantine any locality where contagious disease may appear, and thus prevent its spread and suppress it, as well for our own safety as to increase the foreign demand for our animal products; and

Resolved, that in view of the great perils to northern cattle from Texas fever, and the losses that are certain to be sustained from contact with Texas cattle, shipped or driven northward, we look upon the proposed national cattle trail as dangerous and impracticable, and that its adoption and establishment would be a severe blow to the best interests of Montana cattle growers; and be it further

Resolved, that copies of these resolutions be forwarded by his excellency, the governor of Montana, to the president of the United States, and the presiding officers of both houses of congress and to Hon. Martin Maginnis, delegate in congress, and that the

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president of the United States be requested to call the special and immediate attention of congress to the subject.

JAMES E. CALLAWAY,
Speaker of the House of Representatives,
F. K. ARMSTRONG, President of the Council.

House Joint Resolution for the relief of Fisk Brothers, Helena.

Be it Resolved by the Legislative Assembly of the Territory of Montana:

That there be and there is hereby appropriated out of any money in the territorial treasury not otherwise appropriated, the sum of ninety-eight and 75-100 dollars, to pay for printing tickets for voting on the state constitution, and for furnishing wrappers for mailing the constitution to voters, by Fisk Brothers, Helena, and that the territorial auditor be and he is hereby authorized and required to draw his warrant on the territorial treasurer for such sum, payable to Fisk Brothers.

Approved January 30, 1885.

House Joint Resolution to compensate Charles H. Snell for certain services rendered.

Be it Resolved by the Legislative Assembly of the Territory of Montana:

That the sum of one hundred and twenty-eight and 50-100 dollars be appropriated out of any moneys in the territorial treasury, not otherwise appropriated, to compensate Charles H. Snell for reading and correcting proof of constitution of Montana and address to voters, and putting same in wrappers, and directing and mailing same. The territorial auditor is authorized to draw his warrant on the territorial treasurer for the above amount.

Approved February 13, 1885.

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House Joint Resolution for placing insurance on the Montana law library.

Be it Resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of Montana:

That the sum of three hundred and twenty-five [and] 50-100 dollars be and is hereby appropriated from the funds of the territorial treasury, not otherwise appropriated, for the purpose of securing a five-years' policy of insurance against fire, for the sum of seven thousand dollars on the Montana law library, located in the city of Helena, Montana; and that the territorial auditor is hereby directed to draw his warrant for said amount of insurance premium, three hundred and twenty-five dollars and fifty cents, and that chief justice D. S. Wade be authorized to procure said insurance.

Approved March 5, 1885.

House Joint Resolution for the employment of additional clerks.

Be it Resolved by the Legislative Assembly of the Territory of Montana:

That the committees of enrollment of the council and house of representatives are hereby authorized to employ one clerk each, at a salary of four dollars per diem, to perform such duties as may be assigned to them.

The territorial auditor is hereby authorized, upon the receipt of the certificate of the chief clerks as to employment and attendance, to draw his warrant for the amount of pay due in favor of the clerks authorized herein.

Approved March 5, 1885.

House Joint Resolution for the employment of additional clerks.

Be it Resolved by the Legislative Assembly of the Territory of Montana:

That the enrolling and engrossing committees are hereby authorized to employ such additional clerks as they may deem necessary,

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and such clerks shall receive as compensation the sum of four dollars per day; and the territorial auditor is hereby authorized to draw his warrants on the territorial treasurer for moneys due such clerks, on the order of the chief clerks.

Approved March 12, 1885.

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MEMORIALS.

House Joint Memorial concerning leasing and reduction of the Crow Indian reservation.

To the Honorable, the Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the council and house of representatives, composing the legislative assembly of the territory of Montana, respectfully represent to your honorable bodies:

That the Crow Indians, whose reservation is in the territory of Montana, have selected, and the Indian bureau has had surveyed for them, that portion of their reservation east of the Big Horn river, which contains an ample amount of excellent agricultural lands, for all their future needs, besides a vast tract of grazing country, fully supplying all possible future demands for agricultural and grazing purposes:

That since their removal from their old agency on Stillwater creek to their present location on the Little Big Horn or Custer river several attempts have been made, and are now being made, by stock raising syndicates and speculators, by fraud and misrepresentation, to induce the Indians to lease that part of the reservation vacated by them, west of the Big Horn river, for which they have no use, for a term of years, and upon such terms and conditions as are not only an unjust and a manifest injury to the Indians, but an infraction of the policy of the government in the disposal of the public lands within our domain, and in contravention of the principles of both the political parties, as declared in their recent platforms:

Wherefore, your memorialists earnestly pray that your honorable bodies will speedily take such steps as may be necessary to prevent

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the leasing or disposing of said lands to any public or private corporation or individual, and to restore that portion of the Crow reservation recently abandoned by the Indians, west of the Big Horn river, to the public domain, for the benefit of actual settlers only, thereby relieving these Indians in the future from the evil influences of the importunities and machinations of designing speculators. And your memorialists, as in duty bound, ever pray.

JAMES E. CALLAWAY,
Speaker of the House of Representatives,
F. K. ARMSTRONG, President of the Council.

Council Joint Memorial concerning the executive order of the president of the United States setting apart certain lands in Montana as a reserve for the Cheyenne Indians.

To the President of the United States:

Your memorialists, the council and house of representatives of the territory of Montana, respectfully represent:

That by an executive order of the president of the United States, dated November 26, 1884, a large tract of public land on the Rosebud river, in Montana territory, on the east side of the Crow Indian reservation, was set apart as a reservation for the use of the Cheyenne Indians; that said action of the president operates to the damage and hurt of numerous *bona fide* settlers on said Rosebud river who had made there, prior to said executive order, homes for themselves, and have become citizens of this territory; that said action of the president will tend to discourage good men from coming into our territory on account of the danger of the United States setting apart the lands surrounding that which they might settle as Indian reservation, thereby depriving such settlers of the benefits of schools and other advantages of a civilized community; that there is now a very large proportion of the territorial limits of Montana set apart for Indian reservations—a much larger proportion than in any other state or territory, much of said reservations being wholly unused, thereby retarding the growth of material wealth and population in this territory; that the Indian reservations now in Montana should be diminished, and not increased.

Your memorialists, therefore, earnestly ask that said executive order of November 26, 1884, be revoked, and that a reserve for

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said Cheyenne Indians be created and made out of a portion of the lands heretofore reserved for the use of Indian tribes.

JAMES E. CALLAWAY,
Speaker of the House of Representatives,
F. K. ARMSTRONG, President of the Council.

House Joint Memorial concerning the repeal of the Desert Land Act, of March 3, 1877.

To the Honorable, the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the council and house of representatives, composing the legislative assembly of the territory of Montana, respectfully represent to your honorable bodies:

That nearly all the public domain now left open to settlement in the territory of Montana is desert land; that is, it needs artificial irrigation to render it fit for agricultural uses; large quantities of these table or bench lands have been rendered productive under the provisions of the desert land act of March 3, 1877, and if this act should be repealed, it would be practically impossible hereafter to profitably reclaim these lands from their unproductive character, as the limited quantity which could be taken under the homestead act would not be sufficient to enable the entryman to live off the profits products, in this climate, where the seasons are short, and transportation limited and difficult.

Your memorialists would, therefore, most earestly pray that the desert land act, which will be of the greatest practical value henceforward in this territory, be not repealed.

JAMES E. CALLAWAY,
Speaker of the House of Representatives,
F. K. ARMSTRONG, President of the Council.

Council Joint Memorial concerning the United States penitentiary in Montana.

To the Honorable, the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the council and house of representatives, composing the legislative assembly of the territory of Montana, respectfully represent to your honorable bodies:

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That the United States penitentiary at Deer Lodge, Montana territory, in which are confined the convicts sentenced by the courts in this territory, has but twenty-eight cells suitable for one prisoner each, and that confined in said penitentiary are nearly one hundred convicts; that the original plan of said penitentiary contemplated the erection of another wing, which has not been built, and which is now very necessary to the proper care and safe keeping of the prisoners confined therein; that the wing of said penitentiary already constructed was paid for from the revenue received by the government in this territory; that the health of the prisoners is greatly impaired by the crowded condition of the penitentiary; and the rapidly increasing number of long term convicts, many of whom are desperate characters, and who are necessarily in constant communication with cach other, endangers the safety of the guards, and of the community in which the penitentiary is located.

Your memorialists would, therefore, earnestly pray your honorable bodies to make an adequate appropriation to complete said penitentiary according to the original plans, and would suggest the setting off of a portion of the internal revenue receipts collected in Montana for that purpose. And your memorialists will, as in duty bound, ever pray.

JAMES E. CALLAWAY,
Speaker of the House of Representatives,
F. K. ARMSTRONG, President of the Council.

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